

**BRIGHTON, UTAH**  
**ORDINANCE NO. 2021-04-02**

**AN ORDINANCE ADOPTING TITLE 18 SUBDIVISIONS AND TITLE 19 ZONING OF  
THE BRIGHTON CODE OF ORDINANCES AND THE OFFICIAL ZONING MAP FOR  
THE TOWN OF BRIGHTON**

WHEREAS, the Brighton Town Council ("Council") met in a regular session on April 13, 2021 to consider this Ordinance;

WHEREAS, the Utah State Legislature passed, and Governor Cox signed, SB 240 which grants land use authority to the Town of Brighton, effective May 5, 2021;

WHEREAS, prior to May 5, 2021, the Town of Brighton was subject to Salt Lake County Land Use authority;

WHEREAS an official zoning map is necessary for land use authority;

WHEREAS, after careful consideration, the Council has determined that such adoptions are in the best interest of the health, safety and of the present and future inhabitants of the Town of Brighton; and

NOW, THEREFORE, BE IT ORDAINED by the Brighton Town Council that:

**Section 1. Enactment.**

- A) Title 18 of the Brighton Code of Ordinance as set forth in Exhibit 1 is hereby enacted
- B) Title 19 of the Brighton Code of Ordinance as set forth in Exhibit 2 is hereby enacted
- C) The Official Zoning Map of the Town of Brighton as set forth in Exhibit 3 is hereby enacted.

**Section 2 Effective Date.** This ordinance shall go into effect on May 5, 2021.

**PASSED AND APPROVED** this 13<sup>th</sup> Day of April, 2021

TEST:  
AT  
Kara John, Town Clerk  
rk



**TOWN OF BRIGHTON**

By: D. E. Knopp  
Dan Knopp, Mayor

Exhibit 1 – Title 18  
Exhibit 2 – Title 19  
Exhibit 3 – Official  
Zoning Map

## TOWN OF BRIGHTON ORDINANCES

I certify that the following ordinances were duly posted on 4/14/2021 in the following 3 locations:

Silverfork Neighborhood Mailboxes  
Fire Station 108  
Brighton Neighborhood Mailboxes

2021-04-01 An Ordinance Amending Title 5 Business Licenses and Regulations of the Brighton Code of Ordinances to Clarify the Process and Amend Requirements Related to Short Term Rentals  
2021-04-02 An Ordinance Adopting Title 18 Subdivisions and Title 19 Zoning of the Brighton Code of Ordinances and the Official Zoning Map for the Town of Brighton  
2021-04-03 An Ordinance of the Town of Brighton Town Council Adopting a Poriton of the Wasatch Canyons General Plan

Attest:

Kara John, Town Clerk



## Exhibit 1

### Title 18 SUBDIVISIONS

#### **Chapters:**

Chapter 18.04 - DEFINITIONS

Chapter 18.08 - GENERAL REGULATIONS

Chapter 18.12 - PRELIMINARY PLAT

Chapter 18.16 - FINAL PLAT

Chapter 18.18 - SUBDIVISION AMENDMENTS

Chapter 18.20 - DESIGN STANDARDS

Chapter 18.24 - REQUIRED IMPROVEMENTS

Chapter 18.32 - HEALTH DEPARTMENT REGULATIONS

Chapter 18.36 - FEES, ADMINISTRATION AND ENFORCEMENT

Chapter 18.40 - VIOLATIONS AND PENALTIES

### **Chapter 18.04 DEFINITIONS**

#### **Sections:**

[18.04.010 Generally.](#)

[18.04.020 Alley.](#)

[18.04.030 Bench mark.](#)

[18.04.040 Building setback line.](#)

[18.04.050 Collector street.](#)

[18.04.060 Council.](#)

[18.04.070 Cul-de-sac.](#)

[18.04.075 Director.](#)

[18.04.080 Dwelling.](#)

[18.04.090 Easement.](#)

[18.04.100 Engineering division.](#)

[18.04.110 Final plat.](#)

[18.04.120 Flood control division.](#)

[18.04.130 Guesthouse.](#)

[18.04.140 Lot.](#)

## Title 18 - SUBDIVISIONS

[18.04.150 Lot width.](#)

[18.04.160 Major street.](#)

[18.04.170 Marginal access street.](#)

[18.04.180 Minor street.](#)

[18.04.190 Owner.](#)

[18.04.200 Parcel of land.](#)

[18.04.210 Planning commission.](#)

[18.04.220 Preliminary approval.](#)

[18.04.230 Preliminary plat.](#)

[18.04.240 Street light.](#)

[18.04.250 Subdivision.](#)

[18.04.260 Trails.](#)

### **18.04.010      Generally.**

The terms used in this title shall have the respective meanings set forth in this chapter.

### **18.04.020      Alley.**

"Alley" means a public way which affords a secondary means of access to abutting property.

### **18.04.030      Bench mark.**

"Bench mark" means a mark affixed to a permanent or semi-permanent object along a line of survey to furnish a datum level.

### **18.04.040      Building setback line.**

"Building setback line" means a line within a lot or other parcel of land, so designated on the plat of the proposed subdivision, between which line and the adjacent boundary of the street upon which the lot abuts, the erection of an enclosed structure or portion thereof is prohibited.

### **18.04.050      Collector street.**

"Collector street" means a street which carries traffic from minor streets to the major street system, including the principal entrance streets of residence development and the primary circulating streets within such a development.

### **18.04.060      Council.**

"Council" or "Town Council," unless otherwise clearly indicated, means the Town of Brighton Town Council.



**18.04.070 Cul-de-sac.**

"Cul-de-sac" means a minor street having one open end and being terminated at the other by a vehicular turnaround.

**18.04.075 Director**

"Director" means the director of the Town of Brighton planning and development services division.

**18.04.080 Dwelling.**

"Dwelling" means any building or structure, or portion thereof, intended for residential use.

**18.04.090 Easement.**

"Easement" means the quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public.

**18.04.100 Engineering division.**

"Engineering division" means the engineering division of the public works department of the Town of Brighton

**18.04.110 Final plat.**

"Final plat" means a map or chart of a subdivision which has been accurately surveyed, and such survey marked on the ground so that streets, alleys, blocks, lots and other divisions thereof can be identified.

**18.04.120 Flood control division.**

"Flood control division" means the division of flood control and water quality for the Town of Brighton public works department.

**18.04.130 Guesthouse.**

"Guesthouse" means a separate dwelling structure located on a lot with one main dwelling structure intended for housing of guests or servants and not rented, leased or sold separate from the rental, lease or sale of the main dwelling.

**18.04.140 Lot.**

"Lot" means a portion of a subdivision or parcel of land intended as a unit for building development or transfer of ownership.

**18.04.150 Lot width.**

"Lot width" means the width of the lot measured along the minimum building setback line.

**18.04.160 Major street.**

"Major street" means a street, existing or proposed, which serves or is intended to serve as a major traffic way and which is designated on the County Transportation Improvement Plan as a controlled-access highway, major street, parkway or by equivalent terms suitable to identify streets comprising the basic structure of the street plan.

**18.04.170 Marginal access street.**

"Marginal access street" means a minor street which is parallel to and adjacent to a major street and which provides access to abutting properties and protection from through traffic.

**18.04.180 Minor street.**

"Minor street" means a street, existing or proposed, which is supplementary to a collector or major street and of limited continuity, which serves or is intended to serve the local needs of a neighborhood.

**18.04.190 Owner.**

"Owner" includes the plural as well as the singular, and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or any combination thereof.

**18.04.200 Parcel of land.**

"Parcel of land" means a contiguous quantity of land, in the possession of, or owned by, or recorded as the property of, the same claimant or person.

**18.04.210 Planning commission.**

"Planning commission" means the Town of Brighton planning commission.

**18.04.220 Preliminary approval.**

"Preliminary approval" means an approval, with or without recommended alterations, given to a preliminary plat by the planning commission and provides the necessary authority to proceed with the preparation and presentation of the final plat.

**18.04.230 Preliminary plat.**

"Preliminary plat" means a map or plan of a proposed land division or subdivision.

**18.04.250 Subdivision.**

"Subdivision" means any land that is divided, re-subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, for offer, sale, lease or development. Subdivision does not include a bona fide division or partition of agricultural land for agricultural purposes, provided that such agricultural land shall be subject to the requirements of the subdivision ordinance upon the conversion of the land from agricultural use to residential, commercial or manufacturing use. Further, this definition shall not apply to the sale or

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conveyance of any parcel of land which may be shown as one of the lots of a subdivision of which a plat has theretofore been recorded in the office of the town recorder. The word "subdivide" and any derivative thereof shall have reference to the term subdivision as defined in this section.

### **18.04.260 Trails.**

"Trails" means a system of public recreational pathways located within the Town for use by the public for walking, and/or biking as designated.

## **Chapter 18.08      GENERAL REGULATIONS**

### **Sections:**

[18.08.010 Procedure generally.](#)

[18.08.015 Time limits.](#)

[18.08.020 Exceptions— Permitted when.](#)

[18.08.040 Appeals.](#)

### **18.08.010      Procedure generally.**

The planning commission shall be the land use authority for subdivisions. In order to assure that each subdivision fully complies with the provisions of this title, the director or director's designee shall administer formal application and review procedures for subdivisions. An application shall not be deemed complete until the full application, fees and all required materials have been submitted. The payment of a partial fee and submission of preliminary plans for a pre-submittal review does not constitute a complete application.

Each process shall include the following components:

A. An application procedure, which shall include:

1. Submission of an application form, as designed by the director or director's designee to clearly indicate the type of application, property address, applicant information, and other pertinent information;
2. Submission of supplementary materials, including a legal description, property plat, the required number of plans/preliminary plats, and mailing labels (if required) for notifications;
3. Payment of fees, as required under Title 3, Revenue and Finance.

B. A review procedure, which shall include:

1. An on-site review by the director or director's designee as provided by Utah Code 10-9a-303;
2. Review of the submitted site plan/preliminary plat for compliance with town land use ordinances;
3. Reference of the application and site plan/preliminary plat to any other government agency and/or affected entity which the director or director's designee deems necessary to protect the health, safety, and welfare of the public and to ensure the project's compliance with all applicable ordinances and codes;
4. The processing of any exception requests that have been made in conjunction with the subdivision application.

C. A preliminary plat approval procedure, which shall include:

1. Confirmation that all necessary agencies have responded to the requests for recommendation with a recommendation of approval or approval with conditions;
2. Integration of the recommendations from the other government agencies and affected entities involved above into the preliminary plat;
3. Receipt of a recommendation from the planning staff;

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4. Approval of the preliminary plat as outlined in Section 18.12.030, and issuing a preliminary plat approval letter.
- D. A final plat approval procedure, which shall include:
  1. An engineering review to ensure that the final plat complies with all conditions of approval of the preliminary plat and to ensure that the final plat complies with the design standards, codes, and ordinances and with minimum engineering/surveying requirements;
  2. A check of appropriate background information, such as: lot access, property title, record of survey, field boundary verification, etc.;
  3. The collection of the necessary approval signatures (planning commission representative, director or director's designee, health department, town attorney, mayor) on the final plat;
  4. Payment of final fees and bond;
  5. Recordation of the plat.

### **18.08.015 Time limits.**

Subdivision applications are subject to expiration according to the following schedule unless, for good cause shown, the applicant is granted an extension of time by the director or director's designee:

- A. A subdivision application shall expire if the applicant has not filed any of the required documents for preliminary plat approval within six months of the submission of a complete application.
- B. A subdivision application shall expire if the final plat is not submitted to planning and development services within six months of the preliminary plat approval.
- C. A subdivision application shall expire if the final plat has not been signed by the mayor within six months of the approval of the director or director's designee.
- D. A subdivision application shall expire if the final plat has not been recorded within six months of the date of the mayor's signature on the plat.

### **18.08.020 Exceptions—Permitted when.**

In cases where unusual topographic, aesthetic or other exceptional conditions exist or the welfare, best interests and safety of the general public will be usefully served or protected, variations and exceptions of this title may be made by the mayor after the recommendation of the planning commission, provided, that such variations and exceptions may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.

### **18.08.040 Appeals.**

The applicant or any person adversely affected by a final decision on a subdivision shall have the right to appeal the decision to the land use hearing officer by filing a letter to the hearing officer stating the reasons for appeal within ten days after the decision. The hearing officer shall review the record and the decision to determine whether the decision was arbitrary, capricious, or illegal. After hearing the appeal, the land use hearing officer may affirm, reverse, alter or remand the decision for further consideration.

## Chapter 18.12 PRELIMINARY PLAT

### Sections:

[18.12.010 Required information.](#)

[18.12.020 Appraisal of interested parties.](#)

[18.12.030 Preliminary plat approval or disapproval.](#)

### 18.12.010 Required information.

- A. The preliminary plat, prepared on paper twenty-one inches by thirty inches, shall contain the information specified in this section and comply with the following requirements:
1. Description and Delineation. In a title block located in the lower right-hand corner the following shall appear:
    - a. The proposed name of the subdivision, which name must be approved by the planning and development services division;
    - b. The location of the subdivision, including:
      - i. Address,
      - ii. Section, township and range;
    - c. The names and addresses of the owner, the subdivider, if different than the owner, and of the designer of the subdivision;
    - d. The date of preparation, scale (no less than one inch to equal one hundred feet) and the north point.
  2. Existing Conditions. The plat shall show:
    - a. The location of and dimensions to the nearest bench mark or monument;
    - b. The boundary lines of the proposed subdivision indicated by a solid heavy line and the total approximate acreage encompassed thereby;
    - c. All property under the control of the subdivider, even though only a portion is being subdivided. Where the plat submitted covers only a part of the subdivider's tract, a sketch of the prospective street system of the unplatted parts of the subdivider's land shall be submitted, and the street system of the part submitted shall be considered in the light of existing general street plans, other planning commission studies and other applicable studies;
    - d. The location, width and names of all existing streets within two hundred feet of the subdivision and of all prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or permanent easements and section and corporation lines, within and adjacent to the tract;
    - e. The location of all wells, proposed, active and abandoned, and of all reservoirs within the tract and to a distance of at least one hundred feet beyond the tract boundaries;
    - f. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred feet beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location;
    - g. Existing ditches, canals, natural drainage channels, and open waterways and proposed realignments;

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- h. Boundary lines of adjacent tracts of unsubdivided land, showing ownership where possible;
  - i. Contour at vertical intervals of not more than two feet. Highwater levels of all watercourses, if any, shall be indicated in the same datum for contour elevations;
  - j. Nearest installed fire hydrants on or within five hundred feet of the proposed subdivision.
- 3. Properties Located in the Foothills and Canyons Overlay Zone (which includes all Property in the Town of Brighton). In addition to the preceding, the preliminary plat for subdivision of a property located in the foothills and canyons overlay zone shall show:
  - a. A graphic depiction of existing slope characteristics of the property, illustrating the following:
    - i. Areas with slopes less than thirty percent,
    - ii. Areas with slopes thirty to forty percent,
    - iii. Areas with slopes forty to fifty percent, and
    - iv. Areas with slopes greater than fifty percent;
  - b. Identified natural hazards, including but not limited to, areas potentially subject to avalanche, liquefaction, and/or surface fault rupture;
  - c. Water courses, natural drainage channels, storm water runoff channels, gullies, stream beds, wetlands, etc.
- 4. Proposed Subdivision Plan. The subdivision plan shall show:
  - a. The layout of streets, showing location, widths and other dimensions of (designated by actual or proposed names and numbers) proposed streets, crosswalks, alleys and easements;
  - b. The layout, numbers and typical dimensions of lots, and in areas subject to foothills and canyons overlay zone provisions, designation of buildable areas on individual lots.
  - c. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;
  - d. Building setback lines, including showing dimensions where required by the planning commission;
  - e. Easements for water, sewers, drainage, utility lines and other purposes, if required by the planning commission;
  - f. Typical street cross sections and grade sheets where required by the planning commission or other interested town divisions;
  - g. A tentative plan or method by which the subdivider proposes to handle stormwater drainage for the subdivision.
- B. Where required, evidence of any agreements with adjacent property owners relative to the subdivision development shall be presented to the planning and development services division in writing prior to its approval of the plat. These agreements shall include those relative to drainage, easements, protection strips and improvement bonds.

### **18.12.020 Appraisal of interested parties.**

The planning commission may, by majority vote, withhold approval for one year of a preliminary plat submitted for the division of property, a part or all of which is deemed suitable by the planning commission for schools, parks, playgrounds, streets, highways or other areas for public use, after apprising the proper agencies in writing of the property owner's intent to subdivide. If any such areas proposed for public use have not been freely dedicated to the public by the owner or have not been purchased at a fair price by the proper agency within one year from the date of notification, such areas may be divided into lots and sold in accordance with the provisions of this title.

**18.12.030 Preliminary plat approval or disapproval.**

Following a review of the preliminary plat the planning commission shall act on the preliminary plat as submitted or modified. If the plat is approved, the director or director's designee shall sign the plat. One copy of the preliminary plat shall be provided to the subdivider. One signed copy shall be retained by the planning and development services division, and one copy of the approved plat shall be returned to the developer's engineer. If the preliminary plat is disapproved, the director or director's designee shall notify the developer in writing and give reasons for such disapproval. The receipt of a signed copy of the approved preliminary plat shall be authorization for the subdivider to proceed with the preparation of specifications for the minimum improvements required in Chapter 18.24 of this title and with the preparation of the final plat.



## **Chapter 18.16      FINAL PLAT**

### **Sections:**

[18.16.010 Required information.](#)

[18.16.020 Final approval— GIS data required.](#)

### **18.16.010      Required information.**

The final plat, which must be prepared by a licensed land surveyor not in the employ of the town on a sheet of approved reproducible Mylar and made with approved waterproof black india drawing ink, with text not less than one-tenth inch in size, shall be so drawn that the top of the sheet faces either north or east, whichever accommodates the drawing best, shall contain all information required on the preliminary plat (except contours), and shall comply with the following:

A. Description and Delineation. The final plat shall show:

1. The approved name of the subdivision;
2. Accurate angular and lineal dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features. Boundary lines shall be drawn heavier than street and lot lines;
3. An identification system for all lots and blocks and names of streets. Lot lines shall show dimensions in feet and hundredths;
4. Radii, internal angles, points and curvatures, tangent bearings and length of all arcs;
5. The accurate location of all monuments and fire hydrants to be installed shown by the appropriate symbol. All United States, state, county or other official bench marks, monuments or triangulation stations in or adjacent to the property, shall be preserved in precise position;
6. The dedication to the Town of all streets and highways included in proposed subdivisions. Subdivision monuments shall be installed prior to the improvement bond release by the subdivider's engineer or land surveyor at such points designated on the final plat as approved by the planning and development services division. County standard precast monuments, rings and lids shall be furnished by the county surveyor and shall be purchased by the subdivider at the prices indicated in the county surveyor's adopted fee schedule;
7. Physical markers shall be placed at each lot corner in accordance with state statutes;
8. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses of all property owners;
9. Where it is proposed that streets be constructed on property controlled by a public agent or utility company, approval for the location, improvement and maintenance of such streets shall be obtained from the public agency or utility company and entered on the final plat in a form approved by the town attorney.

B. Standard Forms for the Following. The final plat shall require:

1. A registered land surveyor's certificate of survey;
2. The owner's certificate of dedication;
3. A notary public's acknowledgement;

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4. The planning commission's certificate of approval;
5. The Salt Lake County health department's certificate of approval;
6. The planning and development services division's certificate of approval;
7. The town attorney's certificate of approval;
8. The mayor's certificate of approval;
9. A one and one-half by five-inch space in the lower right-hand corner of the drawing for the county recorder's use.

### **18.16.020 Final approval—GIS data required.**

- A. Prior to the final approval and the issuance of any building permit associated with a subdivision or development plan, or in the case of a single lot development, a single building permit, the owner or developer shall provide to the town a GIS data corresponding to the approved plans for all improvements required by Subsection 18.16.020(B). Any changes during construction will require additional GIS data to be submitted with the final approved as-built drawings. All GIS data shall be submitted in the following format:
  1. All GIS data shall be submitted in conformance with County Policy 1013, "Standards for Geographic Information System" and the "Brighton Town Public Works Engineering GIS Standards," as approved by the Brighton town GIS Steering Committee and on file with Brighton Town Engineering. The Town reserves the right to reject any GIS data that is provided and is not in compliance with the above standards.
  2. This shall be done at the developer or owner's expense. If a developer or owner does not provide the required GIS data, the county may complete the work in the developer or owner's behalf and the developer or owner shall pay to the county the cost of completing the work at the hourly rate approved by the Town attorney for such work. If developer or owner fails to pay for such work, the county may pursue legal action to recover these costs.
  3. Developers with a cost as estimated by the public works department of ten thousand dollars or less may, prior to construction, petition the Division for an exemption from the GIS requirements of this chapter. The decision of the public works director shall be final.
- B. GIS data will be required for the following improvements:
  1. Roadway system: Regulatory signs, street signs, centerlines, curb and gutter, sidewalks, crosswalks, ADA ramps, striping, road width, and monuments; streetlights and signals (including conduit and electrical boxes for streetlights and signals).
  2. Storm drain system: Catch basins, manholes, detention basin inlets and outlets, culverts, detention basin area, stormwater quality BMPs, and pipes.

## **Chapter 18.18 SUBDIVISION AMENDMENTS**

### **Sections:**

[18.18.010 Purpose.](#)

[18.18.020 Boundary line adjustments—Exempt from platting requirement.](#)

[18.18.030 Boundary line adjustments—Review.](#)

[18.18.040 Amendments to create additional lots.](#)

[18.18.050 Other amendments to subdivisions.](#)

[18.18.060 Correction of technical errors.](#)

### **18.18.010 Purpose.**

This chapter establishes review and approval procedures for subdivision amendments and boundary line adjustments.

### **18.18.020 Boundary line adjustments—Exempt from platting requirement.**

A subdivision plat is not required for any of the following:

- A. A recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
  - 1. No new lot is created; and
  - 2. The adjustment does not violate applicable zoning ordinances.
- B. A recorded document, executed by the owner of record that:
  - 1. Revises the legal description of more than one contiguous unsubdivided parcel(s) of property into one legal description encompassing all such parcels of property; or
  - 2. Joins a subdivided parcel of property to an unsubdivided parcel of property and does not violate applicable zoning ordinances.
- C. The consolidation of two or more subdivided lots for the purpose of developing them as one lot, provided:
  - 1. The consolidation does not affect an existing street, alley, walkway, or right-of-way; and
  - 2. No public utility, drainage, or trail easements exist along the mutual boundary of any two lots being consolidated.

### **18.18.030 Boundary line adjustments—Review.**

Boundary line adjustments that are exempt from subdivision platting requirements are subject to a planning division review process which shall include:

- A. Submission of an application; including an application form, application fee, survey/legal descriptions of the proposed adjustment, and other supplemental materials;
- B. Review of the application materials for accuracy and for compliance with applicable zoning ordinances;

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- C. Issuance of a written approval or denial from the planning and development services division with stated reasons;
- D. Recordation of an appropriate document in the office of the county recorder if the application is approved.

### **18.18.040      Amendments to create additional lots.**

An amendment to a recorded subdivision to create one or more additional lots or which involves vacating or altering a public street or alley shall follow the approval procedure outlined in Section 18.08.010 subject to the following additional requirements:

- A. A preliminary plat approval must be received from the planning commission prior to action being taken by the mayor; and
- B. A public hearing must be held by the mayor or his or her designee, in compliance with Utah Code 10-9a-608, prior to the plat amendment being approved or denied.

### **18.18.050      Other amendments to subdivisions.**

An amendment to a recorded subdivision that involves the alteration or removal of an easement, private right-of-way, condition, limitation, or special requirement shall follow the approval procedure outlined in Section 18.08.010 with the following variations:

- A. Only those persons or entities who have a direct interest in, or who will be directly affected by the proposed change (including the applicant) must be notified of any pending action; and
- B. No preliminary plat need be approved. The recommendations of the affected entities and the approval of the planning commission may be based on a final plat.

### **18.18.060      Correction of technical errors.**

An amendment to correct a technical error, such as misnumbered street addresses or an errant note on the plat may be done through recording an affidavit of correction by the director or director's designee.

## **Chapter 18.20      DESIGN STANDARDS**

### **Sections:**

[18.20.010 Departmental standards.](#)

[18.20.020 Design standards generally.](#)

[18.20.025 Design standards for subdivisions located in the foothills and canyons overlay zone.](#)

[18.20.030 Blocks.](#)

[18.20.040 Lots.](#)

[18.20.050 Protection strips.](#)

### **18.20.010      Departmental standards.**

Standards for design, construction specifications and inspection of street improvements, curbs, gutters, sidewalks, storm drainage and flood control facilities shall be prepared by the engineering division; standards for water distribution and sewage disposal facilities shall be prepared by the Salt Lake County health department, and similar standards for fire hydrants shall be prepared by the fire department. All subdividers shall comply with the standards established by such departments and agencies of the county/town.

### **18.20.020      Design standards generally.**

The design of the preliminary and final plats of the subdivision in relation to streets, blocks, lots, open spaces and other design factors shall be in harmony with design standards recommended by the planning commission and by other departments and agencies of county government. Design standards shall be approved by the Town Council and shall include provisions as provided in Sections 18.20.030 through 18.20.050.

### **18.20.025      Design standards for subdivisions located in the foothills and canyons overlay zone.**

- A. Design Shall Further Purposes and Goals of Overlay Zone. In subdivisions proposed for development in the foothills and canyons overlay zone (see Chapter 19.72 in Title 19, Zoning), the general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision shall be designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of the foothills and canyons overlay zone.
- B. Consider/Apply Zoning Development Standards. Applicants shall consider and apply the development standards set forth in Chapter 19.72 in (1) the layout of the subdivision and (2) the designation of buildable areas on individual lots (see subsection C of this section) in order to avoid creating lots or patterns of lots that will make compliance with such development standards difficult or infeasible.
- C. Designations of Buildable Areas. All preliminary and final subdivision plats shall outline buildable areas on each lot intended to accommodate planned principal and accessory structures.
- D. Clustering of Lots. Clustering of lots within a subdivision is strongly encouraged and may be required by the planning commission to meet the requirements of this provision and the overlay zone.

**18.20.030      Blocks.**

- A. Blocks shall not exceed one thousand six hundred feet in length.
- B. Blocks shall be wide enough to adequately accommodate two tiers of lots.
- C. Dedicated walkways through the block may be required where access is necessary to a point designated by the planning commission. Such walkways shall be a minimum of six feet in width, but may be required to be wider where determined necessary by the planning commission. The subdivider shall surface the full width of the walkway with a concrete surface, install a chain-link fence or its equal four feet high on each side and the full length of each walkway and provide, in accordance with the standards, rules and regulations, barriers at each walkway entrance to prevent the use of the walkway, by any motor vehicle or by any other nonmotorized vehicle wider than four feet.
- D. Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

**18.20.040      Lots.**

- A. The lot arrangement and design shall be such that lots will provide satisfactory and desirable sites for buildings and be properly designed according to topography, the character of surrounding development, and to existing requirements.
- B. All lots shown on the preliminary and final plats must conform to the minimum requirements of the zoning title, if any, for the zone in which the subdivision is located, and to the minimum requirements of the health department for water supply and sewage disposal.
- C. Each lot shall abut on a street shown on the subdivision plat or on an existing publicly dedicated street which has become public by right of use and which is more than twenty-six feet wide, or have an approved access via private right-of-way to a public street shown on the plat. Double frontage lots shall be prohibited except where unusual conditions make other designs undesirable.
- D. Side lines or lots shall be approximately at right angles, or radial to the street lines.
- E. In general, all remnants of lots below minimum size must be added to adjacent lots, rather than allowed to remain as unusable parcels.

**18.20.050      Protection strips.**

Where subdivision streets parallel contiguous property of other owners, the subdivider may, upon approval of the planning commission, retain a protection strip not less than one foot in width between the street and adjacent property; provided, that an agreement, approved by the attorney, has been made by the subdivider, contracting to deed to the then owners of the contiguous property, the one-lot or larger protection strip for a consideration named in the agreement; such consideration to be not more than the fair cost of land in the protection strip, the street improvements properly chargeable to the contiguous property, plus the value of one-half the land in the street at the time of agreement, together with interest at a fair rate from the time of agreement until the time of the subdivision of such contiguous property. One copy of the agreement shall be submitted by the attorney to the planning commission prior to approval of the final plat. Protection strips shall not be permitted at the end of or within the boundaries of a public street or proposed street or within any area intended for future public use.

## **Chapter 18.24      REQUIRED IMPROVEMENTS**

### **Sections:**

[18.24.010 Certification of improvements.](#)

[18.24.020 Sewers.](#)

[18.24.025 Public sanitary sewer.](#)

[18.24.030 Storm drainage.](#)

[18.24.040 Street improvements.](#)

[18.24.050 Arrangement of streets.](#)

[18.24.060 Utility and facility systems to be underground.](#)

[18.24.070 Street lighting.](#)

[18.24.080 Pavement requirements.](#)

[18.24.090 Curbs and gutters.](#)

[18.24.100 Street name signs.](#)

[18.24.105 Trails.](#)

[18.24.110 Fire hydrants.](#)

[18.24.120 Stormwater inlets and catchbasins.](#)

[18.24.130 Open ditches and canals—Permitted when.](#)

[18.24.140 Open ditches and canals—Fencing requirements.](#)

[18.24.145 Fencing requirements.](#)

[18.24.150 Construction of improvements.](#)

[18.24.160 Responsibility for damages.](#)

[18.24.170 Performance bonds.](#)

[18.24.180 Exemptions.](#)

[18.24.190 Fee in lieu of required improvements.](#)

### **18.24.010      Certification of improvements.**

No final plat of a subdivision of land shall be recorded without receiving a statement signed by the planning and development services division certifying that the improvements described in the subdivider's plans and specifications have been completed (or that a bond has been submitted for the required improvements as allowed under Section 18.24.170), that they meet the minimum requirements of all ordinances of the town, that they comply with the standards and requirements of the health department, the planning and development services division, the planning commission and the fire authority serving the area.

### **18.24.020      Sewers.**

Storm sewers shall be constructed throughout the entire subdivision to carry off water from all inlets and catchbasins, and shall be connected to an adequate outfall. A stormwater drainage system subject to

the approval of the planning and development services division shall be provided, and shall be separate and independent of the sanitary sewer system. The final plans for the drainage system shall be prepared by a licensed engineer not in the employ of the town.

**18.24.025 Public sanitary sewer.**

- A. Where public sewer service is available to the subdivision, a public sanitary sewer system, including main lines and laterals from the main to each lot property line, shall be constructed throughout the entire subdivision in accordance with plans and technical standards required by the entity providing public sewer service to the subdivision and shall be connected to the public sewer system.
- B. In cases where public sewer service is not presently available to the subdivision, alternate waste disposal systems may only be permitted and used provided that the subdivider or developer installs and constructs concurrently therewith sanitary sewer laterals and mains within the subdivision streets to a point on the subdivision boundary where future connection with the public sewer system shall be made. Sewer laterals shall be laid from each lot to the main line in each street, and a connection shall be available on each lot to connect from the alternate waste disposal systems to the sewer system when public sewer becomes available and operational. Such sanitary sewer system shall be capped until ready for use and shall be constructed throughout the entire subdivision in accordance with plans and technical standards required by the entity that will provide public sewer service to the subdivision in the future.
- C. The mayor may exempt the subdivider from the requirements of this section upon a finding that public sewer service is unlikely to be provided to the subdivision in the future due to physical inaccessibility of the terrain. Prior to making a decision concerning a requested exemption, the mayor shall request a written recommendation from the planning commission, town engineer, and from the entity most likely to provide sewer service to the area in which the subdivision is located.

**18.24.030 Storm drainage.**

No ditch or canal shall be approved as suitable for the use of storm drainage water without the written permission of the appropriate ditch or canal company or of the water users for such use. No ditch or canal shall be used for stormwaters unless adequately improved to handle such water as might be reasonably expected to flow from canal and ditch water, subdivision runoff water, and other water expected to reach such canal or ditch. No ditch, canal or other waterway shall be permitted within property dedicated or to be dedicated for public use. The subdivider shall remove such waterways from property to be so dedicated prior to the construction of required off-site improvements.

**18.24.040 Street improvements.**

- A. The subdivider shall submit a complete set of construction plans and profiles of all streets, existing and proposed, within the subdivision to the planning and development services division. Plans and profiles are to be prepared by a professional engineer licensed to practice in the state of Utah and not in the employ of the town and shall be accompanied by the final plat. The subdivider must also provide a GIS data corresponding to the submitted plans as required by Section 18.16.020. The planning and development services division shall, within a reasonable time not to exceed twenty days from the receipt of the plans and profiles, notify the subdivider of approval, and in case of disapproval the reasons therefor.
- B. At least ten days prior to the commencement of construction, the subdivider shall furnish to the planning and development services division three complete sets of approved construction plans and profiles of all streets, existing and proposed, as well as all corresponding GIS data in a format compatible with this chapter. Such plans and profiles shall include:
  - 1. The designation of limits of work to be done;



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2. The location of the bench mark and its true elevation according to County Policy 1013, "Standards for Geographic Information System," hereby adopted, and the "Public Works Engineering GIS Standards," all profiles to be referred to in those standards;
3. Profiles which indicate the finished and existing grades for each side of the street. Separate profiles, clearly designated, shall be made for each side of the street;
4. Construction plans which include the details of curb and gutter and street cross-sections, location and elevation of manholes, catchbasins and storm sewers, elevations and location of fire hydrants and any other detail necessary to simplify construction;
5. Complete date for field layout and office checking;
6. On curb returns, at least two additional control points for elevation besides those at points of curvature. Control points shall be staked in the field to insure drainage at intersection;
7. The street address of the project as approved by county; county planning number, and subdivision name if applicable.

### **18.24.050      Arrangement of streets.**

The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas and shall provide access to unsubdivided adjoining areas insofar as such continuation or access shall be deemed necessary by the planning commission. New streets must connect with existing public streets.

### **18.24.060      Utility and facility systems to be underground.**

All utility and facility systems including, but not limited to, all poles, towers, wires, lines, cables, conduits, and pipes providing service such as electricity, telephone, telegraph, cable television, gas, water, sewer, steam or petroleum including service drops, distribution systems, and transmission systems shall be placed underground in accordance with town ordinances and policies. (Refer to Chapter 19.79 of this code, Utility and Facility System Placement Regulations.)

### **18.24.080      Pavement requirements.**

- A. All streets within the Town shall be improved with pavements bounded by integral concrete curbs and gutters to an overall width in accordance with the standards, rules and regulations adopted by the Town Council.
- B. Pavements shall be constructed in accordance with the requirements of the standards, rules and regulations adopted by the Town Council. The Town Council hereby adopts applicable county standards, rules, and regulations for pavements and by this reference the same is incorporated herein by reference.

### **18.24.090      Curbs and gutters.**

- A. Curbs and gutters on all streets shall be concrete of the standard high-back-type unit, not less than two feet, six inches in overall width, and not less than seven inches thick where the curb abuts the street pavement.
- B. All curb corners shall have a radius of not less than twenty-five feet or thirty-five feet on streets designated as collector or arterial streets.
- C. The subdivider shall install curbs, gutters and sidewalks on existing and proposed streets in all subdivisions.

**18.24.100 Street name signs.**

Street name signs, conforming to the design and specifications and in the number provided by the standards, rules and regulations of the operations division, shall be provided by the developer at all street intersections. Installation shall be made by the operations division to insure uniformity.

**18.24.105 Trails.**

The subdivider shall dedicate trails necessary to provide public access to public lands and other trails shown on the general plan or required by the planning commission. Trails shall be located so that the route is feasible for both construction and long-term maintenance; sideslopes shall not exceed seventy percent and rock cliffs and other insurmountable physical obstructions shall be avoided. The specific location of the trail right-of-way shall be verified on the ground before approval of the subdivision. The amount of land required for trail dedication without compensation shall not exceed five percent of the land within the subdivision excluding trails located within a standard street right-of-way.

**18.24.110 Fire hydrants.**

Fire hydrants shall be installed in all subdivisions in accordance with the regulations of the fire department.

**18.24.120 Stormwater inlets and catchbasins.**

Stormwater inlets and catchbasins shall be provided within the roadway improvements at points specified by the planning and development services division.

**18.24.130 Open ditches and canals—Permitted when.**

Open ditches or canals shall not be allowed within or adjoining a subdivision except along rear or side lot lines. The subdivider shall work with irrigation, drainage or ditch companies as to:

- A. Methods of covering, realigning or eliminating ditches or canals within or adjoining the subdivision;
- B. The size of pipe and culverts required;
- C. The responsibility for the periodic inspection, cleaning and maintenance of such ditches, pipes and culverts. In cases where canals or ditches cross public roads or proposed public roads, specifications and grades for pipe or culvert must be approved by the planning and development services division.

**18.24.140 Open ditches and canals—Fencing requirements.**

The subdivider shall install a six-foot, nonclimbable chain-link fence, or its equivalent, in conformance with the standards and rules and regulations adopted as provided in Section 18.20.010, along all open ditches, canals or waterways, nonaccess streets, open reservoirs or bodies of water, railroad rights-of-way and other such features of potentially hazardous nature on, crossing or contiguous to the property being subdivided, except along those features which the planning commission shall determine would not be a hazard to life, or where the conforming structure would create a hazard to the safety of the public.

**18.24.145 Fencing requirements.**

Where lots rear on a public street the developer shall install fencing along the street right-of-way which is:

- A. Uniform in design and materials within the subdivision;
- B. A solid visual barrier screening;
- C. A minimum of six feet high from the top of curb or, if there is no curb, from the crown of the street;
- D. Maintained by the abutting property owner;
- E. Constructed with a sealant placed on any masonry fence to help with the removal of graffiti and to preserve the surface;
- F. Constructed according to development standards approved by the planning commission;
- G. Placed on the property line with the space between the fence and the sidewalk hard surfaced or planted with a perennial, climbing, groundcover and a sprinkling system.

**18.24.150 Construction of improvements.**

- A. Twenty-four hours prior to construction of any required improvements, the planning and development services division shall be notified so that proper inspection may be provided and so that it may be determined whether or not proper authorization and/or required permits for construction have been obtained.
- B. As-built plans, profile drawings, and corresponding GIS data shall be furnished to the planning and development services division of all street improvements, storm drain, sanitary sewer, and water systems upon completion. The town shall retain the improvement bond until such plans have been submitted.
- C. Extreme care should be exercised on the part of the subdivider, the contractor and all other associated agencies for the protection and maintenance of all existing or newly placed improvements or facilities within the roadway sections during development.

**18.24.160 Responsibility for damages.**

All damages to any bonded improvements or facilities incurred during the period of development shall be the sole responsibility of the subdivider and must be replaced to the satisfaction of the town before final acceptance of any improvements caused by the subdivider or any agents of the subdivider shall be repaired by the subdivider to the satisfaction of the town prior to final acceptance and bond release.

**18.24.170 Performance bonds.**

- A. In lieu of actual completion of the improvements listed in this chapter, subdividers must file with the town a surety or cash bond, an escrow agreement, or a letter of credit in an amount specified by the mayor or mayor's designee to assure actual construction of such improvements within a two-year period. A percentage, equal to the maximum amount allowed by state law, of the bond amount for public improvements such as curb, gutter, sidewalk, road surfacing, flood control and fire hydrants shall extend for a one-year period beyond the date the improvements are completed to guarantee replacement of defective public improvements. A percentage, equal to the maximum amount allowed by state law, of the bond amount for live plant materials in common areas shall extend for the maximum period allowed by state law beyond the date of planting to guarantee replacement of diseased or dead plants. The bond or agreement shall also secure all lot improvements on individual lots on the subdivision which are required in this chapter.

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- B. If the mayor or mayor's designee determines that the required improvements should be completed in a specified sequence and/or in less than this period in order to protect the health, safety and welfare of the town or its residents from traffic, flood, drainage or other hazards, it may require in approving the final subdivision plat that the improvements, including required landscaping be installed in a specified sequence and period which may be less than this period and shall incorporate such requirements in the bond.
- C. Inspections shall be made within five days from the date of the request. If inspection shows that town standards and specifications have been met in the completion of such improvements, the bond shall be released by the mayor or mayor's designee within seven days from the time of inspection and filing of the as-built plan, any corresponding GIS data (as required), and profile drawings. If the bonds are not released, refusal to release and the reasons therefor shall be given the subdivider in writing within seven days from the time of the inspection.
- D. Such bonds shall be processed and released in accordance with the procedures set forth in Chapter 3.56 of this code.

### **18.24.180 Exemptions.**

Churches and educational institutions shall, upon the submission of a letter guaranteeing the improvements required by this chapter, be exempt from the provisions of Section 18.24.170.

### **18.24.190 Fee in lieu of required improvements.**

- A. Where present conditions exist which make it unfeasible or impractical to install any required public improvements, the mayor or mayor's designee may require the subdivider to pay to the town a fee equal to the estimated cost of such improvements as determined by the director of planning and development services. Upon payment of the fee by the developer, the town shall assume the responsibility for future installation of such improvements.
- B. The auditor shall establish a special account for such fees and shall credit to such account a proportioned share of interest earned from investment of town moneys. Records relating to identification of properties for which fees have been collected, fee amounts collected for such properties and money transfer requests shall be the responsibility of the planning and development services division.

## **Chapter 18.32      HEALTH DEPARTMENT REGULATIONS**

### **Sections:**

[18.32.010 Adoption of health regulations.](#)

[18.32.020 Violations.](#)

### **18.32.010      Adoption of health regulations.**

The provisions of the Salt Lake County health department Health Regulation No. 12, entitled "Subdivisions," as currently adopted by the board of health under authority of the Utah State Code are incorporated in their entirety by reference. Three copies of the current regulations shall be filed with and retained by the town clerk and the health department for examination by any person.

### **18.32.020      Violations.**

Violation of any provision of any health regulation incorporated into this title shall constitute a Class B misdemeanor as defined by the Utah State Code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punished as such.

## **Chapter 18.36 FEES, ADMINISTRATION AND ENFORCEMENT**

### **Sections:**

[18.36.010 Building permit issuance.](#)

[18.36.020 Filing fee.](#)

[18.36.030 Inspections.](#)

[18.36.040 Enforcement authority.](#)

### **18.36.010 Building permit issuance.**

From the time of the effective date of the ordinance codified in this title, the building inspector shall not grant a permit, nor shall any town officer grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this title until a subdivision plat therefor has been recorded or approved as required in this chapter. Any license or permit issued in conflict with such provisions shall be void.

### **18.36.020 Filing fee.**

Persons filing plats shall pay to the planning and development services division prior to recording, an office checking fee as provided for in Section 3.48.020.

### **18.36.030 Inspections.**

Appropriate agencies and departments of the town shall inspect or cause to be inspected all buildings, street improvements, fire hydrants and water supply and sewage disposal systems in the course of construction, installation or repair. Excavations for the fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved by the planning and development services division. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector.

### **18.36.040 Enforcement authority.**

The Town and/or its designee including its code enforcement officers and the fire district are designated, authorized, and charged with the enforcement of the provisions of this title and shall cooperate with the town attorney to enter such actions in court as are necessary. Failure of such to pursue appropriate legal remedies shall not legalize any violation of such provisions.

## **Chapter 18.40      VIOLATIONS AND PENALTIES**

### **Sections:**

[18.40.010 Prohibited acts.](#)

[18.40.020 Violation— Penalty.](#)

### **18.40.010      Prohibited acts.**

No person shall subdivide any tract or parcel of land located wholly or in part in the town except in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land that is any part of a subdivision or a proposed subdivision submitted to the planning commission, nor offer for recording in the office of the county recorder any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.

### **18.40.020      Violation—Penalty.**

Whoever shall violate any of the provisions of this title, including the violation of a condition, limitation or requirement contained on a recorded subdivision plat, shall be guilty of a misdemeanor and, upon conviction of any such violation, shall be punished as provided by the state criminal code for Class B misdemeanors.

Exhibit 2.

## **Title 19      ZONING**

### **Chapters:**

Chapter 19.02 - GENERAL PROVISIONS AND ADMINISTRATION

Chapter 19.04 - DEFINITIONS

Chapter 19.05 - PLANNING COMMISSION

Chapter 19.06 - ZONES, MAPS, AND ZONE BOUNDARIES

Chapter 19.08 - F-1 FORESTRY ZONE

Chapter 19.10 - FM-10 AND FM-20 FORESTRY MULTIFAMILY ZONES

Chapter 19.12 - FR-0.5, FR-1, FR-20, FORESTRY AND RECREATION ZONES

Chapter 19.13 - MOUNTAIN RESORT ZONE

Chapter 19.60 - C-V COMMERCIAL ZONE

Chapter 19.72 - FOOTHILLS AND CANYONS OVERLAY ZONE (FCOZ)

Chapter 19.74 - FLOODPLAIN HAZARD REGULATIONS

Chapter 19.75 - GEOLOGICAL HAZARDS ORDINANCE\* (Formerly "Natural Hazard Areas")

Chapter 19.76 - SUPPLEMENTARY AND QUALIFYING REGULATIONS

Chapter 19.77 - WATER EFFICIENT LANDSCAPE DESIGN AND DEVELOPMENT STANDARDS

CHAPTER 19.78 - PLANNED UNIT DEVELOPMENTS

Chapter 19.79 - UTILITY AND FACILITY SYSTEM PLACEMENT REGULATIONS

Chapter 19.80 - OFF-STREET PARKING REQUIREMENTS

Chapter 19.81 - HIGHWAY NOISE ABATEMENT MEASURES

Chapter 19.82 - SIGNS

Chapter 19.83 - WIRELESS TELECOMMUNICATIONS FACILITIES

Chapter 19.84 - CONDITIONAL USES

Chapter 19.85 - HOME BUSINESS



Chapter 19.86 - HISTORIC PRESERVATION

Chapter 19.87 - RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

Chapter 19.88 - NONCONFORMING USES AND NONCOMPLYING STRUCTURES\*

Chapter 19.90 - AMENDMENTS AND REZONING

Chapter 19.91 - SEXUALLY ORIENTED BUSINESSES

Chapter 19.92 - LAND USE HEARING OFFICER

Chapter 19.93 - PROCEDURES FOR ANALYZING TAKINGS CLAIMS

Chapter 19.94 - ENFORCEMENT

## **Chapter 19.02      GENERAL PROVISIONS AND ADMINISTRATION**

### **Sections:**

[19.02.010 Title for citation.](#)

[19.02.020 Purpose of provisions.](#)

[19.02.030 Interpretation as minimum requirements.](#)

[19.02.040 Resolution of conflicts.](#)

[19.02.060 Licensing requirements.](#)

[19.02.070 Time computation.](#)

[19.02.080 Site plans required—Contents.](#)

[19.02.090 Building and use permits required.](#)

[19.02.100 Compliance prerequisite to permit issuance.](#)

[19.02.110 Improvements—Performance bonds.](#)

[19.02.120 Development standards.](#)

[19.02.130 Land use applications.](#)

[19.02.140 Deputy mayor and the chief administrative officer designated to conduct Brighton's land use hearings and execute land use documents.](#)

### **19.02.010      Title for citation.**

This title shall be known as the "Uniform Zoning Ordinance of Town of Brighton, Utah," and may be so cited and pleaded. This title shall also be known as Title 19, Brighton Code of Ordinances.

### **19.02.020      Purpose of provisions.**

This title is designed and enacted for the purpose of promoting the health, safety, morals, conveniences, order, prosperity and welfare of the present and future

inhabitants of Brighton, including, among other things, the lessening of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering Brighton's agricultural and other industries, and the protection of both urban and nonurban development.

#### **19.02.030 Interpretation as minimum requirements.**

In interpreting and applying the provisions of this title, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

#### **19.02.040 Resolution of conflicts.**

This title shall not nullify the more restrictive provisions of covenants, agreements, other ordinances, or laws, but shall prevail notwithstanding such provisions which are less restrictive.

#### **19.02.050 Effect On Previous Ordinances And Maps.**

**The existing ordinances of Salt Lake County that Brighton inherited upon its incorporation that cover the zoning of areas and districts in Brighton, in their entirety and including the maps theretofore adopted and made a part of such ordinances, are hereby superseded and amended to read as set forth in this title; provided, however that this title, including the maps on file with the planning commission and by this reference made a part hereof, shall be deemed a continuation of previous ordinances, and not a new enactment, insofar as the substance of revisions of previous ordinances is included in this title, whether in the same or in different language; and this title shall be so interpreted upon all questions of construction, including but not limited to questions of construction, relating to tenure of officers and boards established by previous ordinances, and to questions of conforming or nonconforming uses, buildings or structures, and to questions as to the dates upon which such uses, buildings or structures became conforming or nonconforming.**

#### **19.02.060 Licensing requirements.**

All departments, officials and public employees of Brighton which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permits or licenses for use, building or purpose where the same would be in conflict with the provisions of this title, and any such permit or license, if issued in conflict with the provisions of this title, shall be null and void.

#### **19.02.070 Time computation.**

- A. In computing any period of time prescribed or allowed by this title, the day of the act, event or decision after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day, which is neither a Saturday, Sunday or a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday.
- B. The date of a decision or recommendation of the planning commission shall be the date of the public meeting or hearing such decision or recommendation is made. If the decision is made by the development services director, the date of the decision shall be the date specified on the property owner's notification letter in the application file.

#### **19.02.080 Site plans required—Contents.**

A detailed site plan, drawn to scale (scale and sheet size to be determined by the director) shall be filed as part of any application prior to consideration or for any building permit. The site plan shall show, where pertinent:

- A. Note of scale used;
- B. Direction of North point;
- C. Lot lines, together with adjacent streets, roads and rights-of-way;
- D. Location of all existing structures on subject property and adjoining properties (completely dimensioned, including utility lines, poles, etc);
- E. Location of the proposed construction and improvements, including the location of all signs;
- F. Motor vehicle access, including individual parking stalls, circulation patterns, curb, gutter, and sidewalk location;
- G. Necessary explanatory notes;
- H. Name, address and telephone number of builder and owner;
- I. All other information that may be required, as determined by the director.

#### **19.02.090 Building and use permits required.**

Construction, alteration, repair or removal of any building or structure, or any part thereof, as provided or as restricted in this title, shall not be commenced or proceeded with except after the issuance of a written permit for the same by Brighton building official. The use of the land shall not be commenced or proceeded with except upon the issuance of a written permit for the same by the development services division director

or designee. No use permit shall be required for land used for agricultural purposes, as defined in this title, and/or for the keeping or raising of animals or fowl.

**19.02.100 Compliance prerequisite to permit issuance.**

- A. No building permit may be issued without first having been approved by the building official. The building official shall not approve a building permit if any building, structure or use of land would be in violation of any of the provisions of this title, nor shall any other Brighton official grant any permit or license nor the use of any building or land if use would be in violation of this title.
- B. Neither the building official nor any other Brighton official shall grant any permit, license, or land use approval of any building or land in violation of Salt Lake County Code chapter 9.25, entitled "Water Source Protection."

**19.02.110 Improvements—Performance bonds.**

- A. Any improvements required under this title or by the planning commission, including but not limited to curb, gutter and sidewalk, fences, landscaping, streets, fire hydrants and parking, shall be satisfactorily installed prior to Brighton authorizing electrical service being provided; or, if no electrical service is required, prior to issuance of any occupancy permit for the land being developed. In lieu of actual completion of such improvements, or in the case of landscaping, in addition to, except where seasonal considerations reasonably preclude installation of live plant materials, and prior to electrical service being provided or occupancy permit, a developer may file with the mayor or his designee a cash or surety bond or escrow agreement or letter of credit, in an amount specified by the mayor or his designee, to ensure completion of improvements within one year. Twenty-five percent of the bond amount for public improvements, such as curb, gutter, sidewalk, road surfacing and fire hydrants, shall extend for a one-year period beyond the date the improvements are completed, to guarantee replacement of such defective public improvements. Twenty-five percent of the bond amount for live plant materials shall extend for a two-year period beyond the date of planting to guarantee replacement of diseased or dead plants. Upon completion of the improvements for which a bond or escrow agreement has been filed, the developer shall call for inspections of the improvements by the development services director or his authorized agent.
- B. If the mayor or designee determines that the required improvements should be completed in a specified sequence and/or in less than a one-year period in order to protect the health, safety and welfare of Brighton or its residents from traffic, flood, drainage or other hazards, the mayor or designee may require in approving the bond that the improvements be installed in a specified sequence and period which may be less than one year and shall incorporate such requirements in the bond.
- C. Such bonds shall be processed and released in accordance with the procedures set forth in Chapter 3.56 of this code.

- D. When the developer is a school district, municipality, service area, special-purpose district or other political subdivision of the state, the mayor may waive the bond and accept a letter from the governing body guaranteeing installation of the improvements. Before approving any such waiver, the mayor shall receive a recommendation from the public works director.

#### **19.02.120 Development standards.**

The planning commission may adopt development standards for use as a guide in conditional use review and subdivision design, and for use in site plan review for single-family dwellings in forest and recreation zones.

#### **19.02.130 Land use applications.**

The director of planning and development services ("the director") or the director's designee shall be the administrator of the Brighton zoning ordinance. In order to assure that each proposed land use or proposed amendment to an existing land use is handled consistently and fully complies with the provisions of this title, the director or director's designee shall administer application and review procedures as outlined herein unless specific procedures are otherwise provided in the zoning ordinance. Applications shall be diligently prosecuted to completion by the applicant to ensure that any action taken to approve or deny an application is based on current information. An application shall not be considered complete until all application fees have been paid and all required materials have been submitted. The payment of a partial fee and preliminary plans for a pre-submittal review does not constitute a complete application. The land use application process shall consist of the following:

- A. An application procedure, which shall include:
  - 1. Submission of an application form, as designed by the director or director's designee, which clearly indicates the type and purpose of the application, property address, and applicant information;
  - 2. Submission of a legal description of the property plat, a designated number of site plans, building elevations, and mailing labels (if required) for notifications;
  - 3. Payment of fees, as required under Title 3, Revenue and Finance.
- B. A review procedure, which may include:
  - 1. The creation of a planning file by which the applicant, staff, and the public can refer to the proposed land use;
  - 2. An on-site review by the director or director's designee as allowed in Utah Code 10-9a-303;
  - 3. Review of the submitted site plan and elevations for compliance with the zoning ordinance;

4. Referral of the application and site plans to those government agencies and/or affected entities necessary to protect the health, safety, and welfare of the public and to ensure the project's compliance with all applicable ordinances and codes;
- C. An approval procedure, which shall include:
1. The integration of the recommendations from the other government agencies and affected entities involved in subsection (B)(4) of this section into the final site plan and/or elevations;
  2. An approval letter or other written document indicating the approval or denial of the application with appropriate conditions as needed to ensure compliance with all applicable codes, ordinances, and regulations;
  3. Provision of the approved site plan and approval letter or denial letter to the applicant in a timely manner.

**19.02.140 Town Council and Mayor designated to conduct Brighton's land use hearings and execute land use documents.**

In accordance with state law and Brighton ordinance, the Brighton council hereby designates the Town Council and mayor to conduct Brighton's land use hearings and execute land use documents in its behalf.

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#### **19.04.005 Definitions and interpretation of language.**

For the purpose of this title, certain words and terms are defined as set out in this chapter. Words used in the present tense include the future; words in the singular number include the plural and the plural the singular; and words included herein but defined in the building code shall be construed as defined therein.

#### **19.04.010 Abandonment.**

"Abandonment" means a structure or portion thereof, which is, or hereafter becomes, vacant and remains unoccupied for a continuous period of one year..

#### **19.04.020 Agriculture.**

"Agriculture" means the tilling of the soil, the raising of crops, horticulture and gardening, but not including the keeping or raising of domestic animals or fowl, except

household pets, and not including any agricultural industry or business such as fruit-packing plants, fur farms, animal hospitals or similar uses.

**19.04.025    Airport.**

"Airport" means any landing area, runway or other facility designed, used or intended to be used either publicly or by any persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tiedown areas, hangars, and all other necessary buildings and open spaces.

**19.04.030    Alley.**

"Alley" means a public thoroughfare less than twenty-five feet wide.

**19.04.035    Amusement device.**

"Amusement device" means any video game, pinball or other machine, whether mechanically or electronically operated that, upon insertion of a coin, trade-token, slug or similar object, or upon payment of money or other consideration through use of a metered or similar device, operates or may be operated as a game or contest of skill or amusement of any kind or description, and that contains no automatic payoff for the return of money or trade-tokens, or that makes no provision whatever for the return of money to the player. An amusement device is further defined as any machine, apparatus or contrivance that is used or that may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine. An amusement device shall exclude billiard, pool or bagatelle tables.

**19.04.040    Antique.**

"Antique" means a relic, work of art, piece of furniture or other decorative object of ancient times, or made in a former age or period, highly valued for its beauty, craftsmanship or rarity.

**19.04.045    Apartment court.**

"Apartment court" means any building or group of buildings which contains dwelling units, and also satisfies the definition of tourist court, as defined in this chapter.

**19.04.050    Apartment house.**

"Apartment house" means a multiple dwelling; see "Dwelling, multiple-family."

**19.04.055 Apartment hotel.**

"Apartment hotel" means any building which contains dwelling units and also satisfies the definition of a hotel, as defined in this chapter.

**19.04.057 Apartments for elderly persons.**

"Apartments for elderly persons" means an apartment building or complex of buildings, twenty-four units or greater for occupancy exclusively by persons at least sixty-two years of age.

**19.04.060 Arcade.**

"Arcade" means any business catering to minors, containing four or more amusement devices.

**19.04.065 Area of special flood hazard.**

"Area of special flood hazard" means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

**19.04.070 Base flood.**

"Base flood" means a flood having a one-percent chance of being equaled or exceeded in any given year.

**19.04.075 Basement.**

"Basement" means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story.

**19.04.077 Bed and breakfast homestay.**

"Bed and breakfast homestay" means a dwelling which has frontage on a street with a minimum right-of-way of sixty feet, contains a maximum of five guestrooms, is occupied by the owner or individual responsible for operating the facility, and used for accommodations or lodging of guests paying compensation. Breakfast may be served during the a.m. hours. Lunch or dinner may not be served. This use shall not change the character of the dwelling or property for residential purposes, and shall meet the requirements of the health department and the fire department. (The requirements of the health department limit breakfast to a continental-type breakfast unless certain specified health regulations are met.)

**19.04.078 Bed and breakfast inn.**

"Bed and breakfast inn" means a building containing a minimum of six guestrooms, but not more than thirty guestrooms, is used for accommodations or lodging of guests paying compensation where at least a breakfast meal is served, and in which no provision is made for cooking in any individual guestroom. The structure shall have a residential appearance, and be limited to a maximum of two stories in height.

**19.04.080 Boardinghouse.**

"Boardinghouse" means a building with not more than five guestrooms, where, for compensation, meals are provided for at least five but not more than fifteen persons.

**19.04.085 Building.**

"Building" means any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

**19.04.090 Building, accessory.**

"Accessory building" means a detached, subordinate building clearly incidental to and located upon the same lot occupied by the main building. Also, a building clearly incidental to an agriculture or animal care land use located on a lot in an agriculture zone, which lot meets the minimum lot size for such zone and is not under one acre in area.

**19.04.095 Building, height of.**

- A. "Height of building" means the vertical distance above the lowest original ground surface at any point on the perimeter of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to a level midway between the level of the eaves and the highest point of pitched or hipped roofs, or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For purposes of measuring height, the "level of the eaves" means the highest level where the plane of the roof intersects the plane of the outside wall on any side containing an eave.
- B. Buildings may be stepped to accommodate the slope of the terrain provided that each step shall be at least twelve feet in horizontal dimension. The height of each stepped building segment shall be measured as required in subsection A.
- C. Original ground surface shall be the elevation of the ground surface in its natural state before any manmade alterations including but not limited to grading, excavation or filling, excluding improvements required by zoning or subdivision ordinances. When the elevation of the original ground surface is not readily apparent because of previous manmade alterations, the elevation of the original grade shall be determined by the development services division using the best information available.

**19.04.100 Building, main.**

"Main building" means the principal building or one of the principal buildings upon a lot, or the building or one of the principal buildings housing a principal use upon a lot.

**19.04.105 Canopy.**

"Canopy" means a roofed structure supported by a building and/or supports extending to the ground directly underneath the canopy, and providing a protective shield for service-station pump islands and walkways.

**19.04.110 Carport.**

"Carport" means a private garage not completely enclosed by walls or doors. For the purpose of this title, a carport shall be subject to all of the regulations prescribed for a private garage.

**19.04.112 Check cashing.**

"Check cashing" means cashing a check for consideration or extending a deferred deposit loan (as defined by the Check Cashing Regulation Act of the Utah Code) but does not include the activities of depository institutions or persons who cash a check in a transaction that is incidental to the retail sale of goods or services for consideration that does not exceed the greater of one percent of the amount of the check or one dollar.

**19.04.115 Child nursery.**

"Child nursery" means an establishment for the care, whether or not for compensation, of up to six children other than members of the family residing on the premises.

**19.04.120 Church.**

"Church" means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**19.04.125 Class A beer outlet.**

"Class A beer outlet" means a place of business wherein beer is sold in original containers to be consumed off the premises in accordance with the Liquor Control Act of the state and the licensing ordinance of Brighton.

**19.04.130 Class B beer outlet.**

"Class B beer outlet" means a place of business in connection with a bona fide restaurant wherein beer is sold in original containers for consumption on the premises; provided, that the sale of beer is less than forty percent of the gross dollar value, subject to the provisions of the licensing ordinance of Brighton.

**19.04.135 Class C beer outlet.**

"Class C beer outlet" means a place of business wherein the primary or main business is that of selling beer for consumption on the premises.

**19.04.140 Conditional use.**

"Conditional use" means a use of land for which a conditional use permit is required pursuant to Chapter 19.84 of this title.

**19.04.150 Court.**

"Court" means an occupied space on a lot, other than a yard, designed to be partially surrounded by group dwellings.

**19.04.160 Day care/preschool center.**

"Day care/preschool center" means:

- A. Any facility, other than an occupied dwelling, operated by a person qualified by the state, which provides day care, protection or supervision and/or preschool instruction.
- B. No person who is violent or being treated for alcoholism or drug abuse can be placed in a day care/preschool center. Placement in a day care/preschool center may not be part of or in lieu of confinement, rehabilitation or treatment in a correctional facility.

**19.04.165 Development.**

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**19.04.166 Director.**

"Director" means the director of the Brighton planning and development services division.

**19.04.167 Development services division.**

"Development services division" means the Brighton public works, planning and development services division.

**19.04.168 Disability.**

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

**19.04.175 Drive-in refreshment stand.**

"Drive-in refreshment stand" means a place of business where food and drink are sold primarily for consumption on the premises outside the structure.

**19.04.180 Dwelling.**

"Dwelling" means any building, or portion thereof, which is designated for use for residential purposes, except hotels, apartment hotels, boardinghouses, lodging houses, tourist courts and apartment courts.

**19.04.185 Dwelling, four-family.**

"Four-family dwelling" means a single building under a continuous roof containing four dwelling units completely separated by either: (1) common interior walls, where the units are side by side; or (2) common interior floors, where the units are one above the other. A common wall(s) may be located within an attached garage used for the storage of private automobiles.

**19.04.190 Dwelling group.**

"Dwelling group" means a group of two or more dwellings located on a parcel of land in one ownership and having any yard or court in common.

**19.04.195 Dwelling, multiple-family.**

"Multiple-family dwelling" means a building arranged or designed to be occupied by more than four families.



**19.04.200 Dwelling, single-family.**

"Single-family dwelling" means a building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

**19.04.205 Dwelling, three-family.**

"Three-family dwelling" means a single building under a continuous roof containing three dwelling units completely separated by either: (1) common interior walls, where the units are side by side; or (2) common interior floors, where the units are one above the other. A common wall(s) may be located within an attached garage used for the storage of private automobiles.

**19.04.210 Dwelling, two-family.**

"Two-family dwelling" means a single building under a continuous roof containing two dwelling units completely separated by either: (1) a common interior wall, where the units are side by side; or (2) a common interior floor, where the units are one above the other. A common wall may be located within an attached garage used for the storage of private automobiles.

**19.04.215 Dwelling unit.**

"Dwelling unit" means one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. Buildings with more than one kitchen or set of cooking facilities are considered to contain more than one dwelling unit unless the additional cooking facilities are clearly accessory to a dwelling unit as determined by the development services director. Factors for determining whether cooking facilities are accessory to a dwelling unit may include but are not limited to:

1. A building design which allows all occupants ready access to all portions of the building including cooking facilities;
2. No portion of the building containing cooking facilities can be separated from the remaining rooms to form a separate dwelling unit;
3. There is only one electric and/or gas meter for the building.

**19.04.220 Entrance.**

"Entrance" means the location of ingress to a room, building or lot; a location of admittance.

**19.04.225 Exit.**

"Exit" means the location of egress from a room, building or lot.

**19.04.230 Family.**

"Family" means:

- A. Any number of people living together in a dwelling unit and related by blood, marriage or adoption, and including up to three additional unrelated people; or
- B. One to four unrelated people living together in a dwelling.

Each unrelated person owning or operating a motor vehicle shall have a lawfully located off-street parking space.

**19.04.235 Family food production.**

"Family food production" means the keeping of not more than two cows, two sheep, two goats, twenty rabbits, fifty chickens, fifty pheasants, ten ducks, ten turkeys, ten geese and twenty pigeons, provided that not more than three of the above-listed kinds of animals and fowl are permitted at any one time on any lot in zones where family food production may be a permitted or conditional use.

**19.04.240 Flood or flooding.**

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**19.04.245 Flood Insurance Rate Map (FIRM).**

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**19.04.250 Flood insurance study.**

"Flood insurance study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

**19.04.255 Floodway.**

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**19.04.260 Frontage.**

"Frontage" means all property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end streets, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

**19.04.265 Garage, private.**

"Private garage" means an accessory building designed or used for the storage of not more than four automobiles owned and used by the occupants of the building to which it is accessory; provided, that on a lot occupied by a multiple dwelling, the private garage may be designed and used for the storage of one and one-half times as many automobiles as there are dwelling units in the multiple dwelling. A garage shall be considered part of a dwelling if the garage and the dwelling have a roof or wall in common. A private garage may not be used for storage of more than one truck for each family dwelling upon the premises, and no such truck shall exceed two and one-half tons capacity.

**19.04.270 Garage, public.**

"Public garage" means a building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

**19.04.275 Grade.**

"Grade" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

**19.04.277 Graffiti.**

"Graffiti" means inscriptions, drawings, paintings or other visual defacing of buildings, structures or natural features, without the consent of the owner thereof, and which is not otherwise authorized and permitted in the Brighton ordinances.

**19.04.280 Guest.**

"Guest" means a transient person who rents or occupies a room for sleeping purposes.

**19.04.285 Guestroom.**

"Guestroom" means a room which is designed for double occupancy by guests, for sleeping purposes.

**19.04.290 Guest house.**

"Guest house" means a separate dwelling structure located on a lot with one or more main dwelling structures and used for housing of guests or servants, and not rented, leased or sold separate from the rental, lease or sale of the main dwelling.

**19.04.293 Home day care/preschool.**

"Home day care/preschool" means the keeping for care and/or preschool instruction of twelve or less children including the caregiver's own children under the age of six and not yet in full day school within an occupied dwelling and yard. (State regulations require two caregivers if there are more than six children in a home day care and may further limit the number of children allowed in a home day care.) A home day care/preschool must meet the following standards:

- A. When allowed as a permitted use there shall be a maximum of six children without any employees not residing in the dwelling. When allowed as a conditional use there shall be a maximum of twelve children with not more than one employee at any one time not residing in the dwelling;
- B. The use shall comply with the health department noise regulations;
- C. The play yard shall not be located in the front yard and shall only be used between eight a.m. and nine p.m.;
- D. The lot shall contain one available on-site parking space not required for use of the dwelling, and an additional available on-site parking space not required for use of the dwelling for any employee not residing in the dwelling. The location of the parking shall be approved by the development services division director to insure that the parking is functional and does not change the residential character of the lot;
- E. No signs shall be allowed on the dwelling or lot except a nameplate sign;
- F. The use shall comply with all local, state and federal laws and regulations. (The Life Safety Code includes additional requirements if there are more than six children);
- G. Upon complaint that any of the requirements of this section or any other Brighton ordinance are being violated by a home day care/preschool caregiver, Brighton shall review the complaint and if substantiated may institute a license revocation proceeding under Section 5.07; and
- H. The caregiver shall notify in writing, on a form provided by the development services division, all property owners within a three hundred foot radius of the

caregiver's property concerning the licensing of a home day care/preschool at such property.

**19.04.300 Hotel.**

"Hotel" means a building designed for or occupied by sixteen or more guests who are for compensation lodged, with or without meals.

**19.04.310 Intensity.**

"Intensity" means the concentration of activity, such as a combination of the number of people, cars, visitors, customers, hours of operation, outdoor advertising, etc.; also, the size of buildings or structures, the most-intense being higher, longer and/or wider.

**19.04.315 Junk.**

- A. "Junk" means any salvaged or scrap copper, brass, iron, steel, metal, rope, rags, batteries, paper, wood, trash, plastic, rubber, tires, waste or other articles or materials commonly designated as junk. Junk, except as provided in subsections (B) or (C), shall also mean any dismantled, wrecked or inoperable motor vehicles or recreational vehicles or parts thereof which are stored or parked on property outside of an enclosed building and which remain in such condition for a period of time in excess of sixty days. An automobile, truck or bus shall be considered inoperable if it is not currently registered and licensed in this state or another state.
- B. One truck with a capacity of one ton or less or automobile which is not currently licensed and registered in this state or another state but is otherwise operable may be stored on property for a period not to exceed two years if it is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged exposing jagged metal; or
- C. One truck with a capacity of one ton or less or automobile which is inoperable may be stored in a side yard, except a side yard which faces on a street or a rear yard on property for a period not to exceed two years provided:
  - 1. The automobile or truck is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged exposing jagged metal; and
  - 2. The automobile or truck shall not be visible from any public street; and
  - 3. The automobile or truck is entirely concealed by a covering which is maintained in good condition and which does not extend closer to the ground than the lowest point of the vehicle body.
- D. All existing legal nonconforming motor vehicles as of the effective date of the ordinance codified in this section, or any amendment hereto, shall comply with the provisions of this section within one year from the date of the enactment of this section or any amendment thereto.

**19.04.320 Junkyard.**

"Junkyard" means the use of any lot, portion of a lot, or tract of land for the sale, storage, keeping, disassembly or abandonment of junk or discarded or salvaged material, provided that this definition shall be deemed not to include such uses which are clearly accessory and incidental to any agricultural use permitted in the zone.

**19.04.330 Lodging house.**

"Lodging house" means a building where lodging only is provided for compensation of five or more, but not exceeding fifteen persons.

**19.04.335 Lot.**

"Lot" means a parcel of land occupied by a building or group of buildings, together with such yards, open spaces, lot width and lot areas as are required by this title, having frontage upon a street or upon a right-of-way approved by a land use hearing officer, or upon a right-of-way not less than twenty feet wide. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy one lot.

**19.04.340 Lot, corner.**

"Corner lot" means a lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed one hundred thirty-five degrees.

**19.04.345 Lot, interior.**

"Interior lot" means a lot other than a corner lot.

**19.04.350 Mobile home or manufactured home.**

- A. "Mobile home" or "manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use as a dwelling with or without a permanent foundation when connected to the required utilities.
- B. The requirements of this title shall not be construed to prevent the storage of a mobile home in the rear yard of a dwelling structure. A mobile home so stored may be temporarily used for sleeping purposes by members or guests of the family residing in the dwelling structure, but the mobile home shall not be connected to utilities or used for residential purposes unless approved by the planning commission as a temporary use incidental to construction work.
- C. Except as provided herein and in Section 19.76.290, a mobile home shall not be used for residential or sleeping purposes unless the mobile home is located in an approved mobile home park or an approved mobile home subdivision.

**19.04.355 Mobile home park.**

"Mobile home park" means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation, pursuant to the mobile home park ordinance.

**19.04.360 Mobile store.**

"Mobile store" means a portable structure, including vehicles, without a permanent foundation, for use on a temporary or seasonal basis, from which goods or merchandise are sold or where a service is provided which is utilized on the premises. Approval for each mobile store shall not exceed one hundred twenty days per calendar year at the same location or within two hundred fifty feet of a previously approved location.

**19.04.365 Natural waterways.**

"Natural waterways" means those areas varying in width along streams, creeks, gullies, springs or washes which are natural drainage channels, as determined by the building inspector, and in which areas no building shall be constructed.

**19.04.370 Neighborhood storage.**

"Neighborhood storage" means a building not served by sewer, water or gas utilities and used exclusively for storing personal property of an individual or family, retail business inventory items, and business records and accounts.

**19.04.375 New construction.**

"New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in Chapter 19.74 of this title, on floodplain hazard regulations.

**19.04.380 Noncomplying structure.**

"Noncomplying structure" means a building or other structure or portion thereof lawfully constructed in compliance with the zoning ordinance existing at the time of construction, that no longer conforms to the height, area and/or yard regulations in the zone in which it is located due to changes to the zoning ordinance or to subsequent public acquisition of land for public improvements.

**19.04.385 Nonconforming use.**

"Nonconforming use" means a use which lawfully occupied a building or land at the time the ordinance codified in this title became effective and which does not conform with the use regulations of the zone in which it is located.

**19.04.390 Nursing home.**

"Nursing home" means an establishment where persons are lodged and furnished with meals and nursing care.

**19.04.395 Organic disposal site.**

"Organic disposal site" means a disposal site where settled or precipitated solid matter produced by water and sewage treatment processes is disposed of in compliance with the board of health requirements, using sanitary land-filling techniques, in a manner that does not create a nuisance or health hazard, that protects the environment, and will not cause a pollution source of water, air, etc.

**19.04.400 Package agency.**

"Package agency" means a retail liquor location operated under a contractual agreement with the state department of alcoholic beverage control, by a person other than the state, who is authorized by the state of Utah alcoholic beverage control commission to sell package liquor for consumption off the premises of the agency.

**19.04.405 Parking lot.**

"Parking lot" means an open area, other than a street, used for parking of more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

**19.04.410 Parking space.**

"Parking space" means space within a building, lot or parking lot for the parking or storage of one automobile.

**19.04.415 Permitted use.**

"Permitted use" means a use of land for which no conditional use permit is required.

**19.04.420 Planned unit development.**

"Planned unit development" means a complete development plan for an area pursuant to Chapter 19.78 of this title.

**19.04.421 Planning commission.**

"Planning commission" means the Town of Brighton planning commission.



**19.04.425 Private educational institutions having an academic curriculum similar to that ordinarily given in public schools.**

"Private educational institutions having an academic curriculum similar to that ordinarily given in public schools" means private training schools and other private schools which are instructional in nature, including laboratory and shop instruction with the use of demonstration vehicles, products or models incidental to such instruction, but not including the repair, maintenance or manufacture of vehicles, goods or merchandise, not providing direct services other than instruction to the general public.

**19.04.430 Private nonprofit locker club.**

"Private nonprofit locker club" means a social club, recreational, athletic or kindred association incorporated under the provisions of the Utah Nonprofit Corporation and Cooperation Act, which maintains or intends to maintain premises upon which liquor is or will be stored, consumed or sold.

**19.04.435 Private nonprofit recreational grounds and facilities.**

"Private nonprofit recreational grounds and facilities" means nonprofit recreational grounds and facilities operated by an association incorporated under the provisions of the Utah Nonprofit Corporation and Cooperation Act, or a corporated sole.

**19.04.437 Protected living arrangement.**

"Protected living arrangement" means provision for food, shelter, appropriate sleeping accommodations, and supervision of activities of daily living for persons of any age who are unable to independently maintain these basic needs and functions.

**19.04.440 Public use.**

"Public use" means a use operated exclusively by a public body, or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including uses such as public schools, parks, playgrounds and other recreational facilities, government and public utility administrative offices, fire stations, police stations, and facilities that are part of the local service delivery system for public utilities. "Public use" does not include public utility production, storage, and treatment facilities that occupy property over three acres in size, such as: power plants, refineries, natural gas processing and storage plants, water treatment plants, or sewage treatment facilities.

**19.04.445 Quasi-public use.**

"Quasi-public use" means a use operated by a private nonprofit educational, religious, recreational, charitable or philanthropic institution, such use having the

purpose primarily of serving the general public, such as churches, private schools and universities, and similar uses.

**19.04.447 Rail transit mixed-use.**

"Rail transit mixed-use" means a use which allows rail-oriented development that combines different land uses within a single development, tract of land, building, or structure. Its purpose is to encourage development that is high quality, human scale, and pedestrian friendly, while creating a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact walkable urban form.

**19.04.448 Recreation, commercial.**

"Commercial recreation" means recreational facilities operated as a business and open to the general public for a fee, such as golf driving ranges and baseball batting ranges.

**19.04.449 Reiki business.**

"Reiki business" means a business devoted primarily to Reiki healing, or any other system that has elements of the following. The practitioner, trained to access and serve as a channel for a sacred life force, places his or her hands on or just above the client's body in order to activate healing energy within receptive points on the body. The practitioner's hands move progressively with a passive touch through various positions on the body, remaining in each position for a period of time. As a harmonic flow of energy is strengthened, within the client and practitioner, healing occurs through the return of physical, mental and spiritual balance. For purposes of this title, a Reiki business shall not include Reiki healing, or similar system, which are performed in a hospital or medical clinic.

**19.04.451 Residential facility for elderly persons.**

- A. "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that is occupied twenty-four hours a day in a family-type arrangement by eight or fewer elderly persons sixty years old or older capable of living independently.
- B. Such facility shall be owned by one of the residents or by an immediate family member of one of the residents or the title has been placed in trust for a resident.
- C. Placement in such facility is on a voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.
- D. No person being treated for alcoholism or drug abuse may be placed in such a facility.
- E. The structure shall be capable of use without the residential character being changed by exterior structural or landscaping alterations.

- F. Each facility shall not be located within three-quarters mile of another residential facility for elderly persons or residential facility for handicapped persons.
- G. This use is nontransferable and terminates if the structure is devoted to a use other than a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

**19.04.452 Residential facility for persons with a disability.**

"Residential facility for persons with a disability" means a residence:

- A. In which more than one person with a disability resides; and
- B. Is (1) licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities, Utah Code, Unannotated; or (2) licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, Utah Code, Unannotated.

**19.04.455 Resort hotel.**

"Resort hotel" means a building or group of buildings, other than a motel, boardinghouse or lodging house, containing individual guestrooms, suites of guestrooms, dwelling units, and which furnishes services customarily provided by hotels.

**19.04.457 Resource recycling collection point.**

"Resource recycling collection point" means a portable structure, enclosed bin, trailer, or reverse vending machine where recyclable material (aluminum cans, glass, paper, etc.) is exchanged for money or deposited as a donation. Approval is not to exceed twelve months without reapproval.

**19.04.460 Restaurant.**

"Restaurant" means a place of business where a variety of hot food is prepared and cooked and complete meals are served to the general public for consumption on the premises primarily in indoor dining accommodations.

**19.04.462 Restaurant liquor license.**

"Restaurant liquor license" means a public restaurant authorized by the state alcoholic beverage control commission as a liquor outlet allowing the storage, sale and consumption of liquor and alcohol on the premises.

**19.04.470 School.**

"School" means an institution recognized as satisfying the requirements of public education and having an academic curriculum similar to that ordinarily given in public schools. Home occupations represented as schools shall not apply (dance, music, crafts, child nurseries, etc.).

**19.04.475 Shopping center.**

"Shopping center" means a group of architecturally unified commercial establishments built on a site which is planned, developed, owned and managed as an operating unit.

**19.04.495 Start of construction.**

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

**19.04.500 State store.**

"State store" means a facility for the sale of package liquor located on the premises owned or leased by the state and operated by state employees. This term shall not apply to restaurants, private clubs or package agencies.

**19.04.505 Story.**

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused underfloor space is more than six feet above grade for more than fifty percent of the total perimeter or is more than twelve feet above grade at any point, such usable or unused underfloor space shall be considered as a story.

**19.04.507 Story, first.**

"First story" means the lowest story in a building which qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet below grade for more than fifty percent of the total perimeter, or not more than eight feet below grade at any point.

**19.04.510 Story, half.**

"Half story" means a story with at least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor immediately below it.

**19.04.515 Street.**

"Street" means a thoroughfare which has been dedicated or abandoned to the public and accepted by proper public authority, or a thoroughfare, not less than twenty-five feet wide, which has been made public by right of use and which affords the principal means of access to abutting property.

**19.04.520 Structure.**

"Structure" means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.

**19.04.525 Structural alterations.**

"Structural alterations" means any change in supporting members of a building or structure, such as bearing walls, columns, beams or girders.

**19.04.530 Studios.**

"Studios" means a facility used for the instruction of specialized talents or skills.

**19.04.535 Substantial improvement.**

- A. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure, either:
  - 1. Before the improvement or repair is started; or
  - 2. If the structure is damaged and is being restored, before the damage occurred.
- B. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

C. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**19.04.540 Tanning studio.**

"Tanning studio" means any business which uses artificial lighting systems to produce a tan on an individual's body. This use specifically excludes spas, gymnasiums, athletic clubs, health clubs, and any exercise equipment.

**19.04.545 Tourist court.**

"Tourist court" means any building or group of buildings containing sleeping rooms, with or without fixed cooking facilities, designed for temporary use by automobile tourists or transients, with garage attached or parking space conveniently located at each unit, including auto courts, motels or motor lodges.

**19.04.547 Short-term rental.**

"Short-term rental" means any dwelling or portion thereof as defined in section 5.19.010 of this Code.

**19.04.550 Use, accessory.**

"Accessory use" means a subordinate use customarily incidental to and located upon the same lot occupied by a main use.

**19.04.551 Vehicle, commercial.**

"Commercial vehicle" means any motorized vehicle or trailer used for or intended for business use - including but not limited to the transportation of commercial equipment, merchandise, produce, freight, commodities, passengers, or animals - and which is characterized by any of the following:

- A. Heavy equipment, such as earth movers, backhoes, cranes, forklifts, bulldozers, and the like, which are commonly used for construction, excavation, demolition, or lifting; vehicles used to haul equipment or materials, such as dump trucks, tanker trucks, semi-tractors, semi-trailers, cement trucks, or other similar vehicle.
- B. Pickup trucks over one ton with a commercial modification, such as a flat bed, a dumping mechanism, mechanical lifts or arms for loading and unloading materials/equipment, aerial buckets or platforms, or other similar feature.

- C. Vehicles with more than two axles.
- D. Vehicles that exceed eight feet in height.

**19.04.553 Vehicle, private.**

"Private vehicle" means an automobile, sport utility, crossover, pickup truck, motorcycle, or similar motorized device in which a person or thing is, or can be, transported from one place to another, except commercial or recreational vehicles as defined in this chapter.

**19.04.554 Vehicle, recreational.**

"Recreational vehicle" means a vehicle, snowmobile, trailer, camper, or watercraft with or without a motor, designed and constructed for recreational use or as temporary living quarters for travel or vacation purposes. "Recreational vehicle" does not include human or battery powered personal apparatuses, such as bicycles, kick-scooters, or children's toys.

**19.04.555 Width of lot.**

"Width of lot" means the distance between the side lot lines and the distance back from the front lot line required for the depth of the front yard.

**19.04.560 Yard.**

"Yard" means a space on a lot, other than a court, unoccupied and unobstructed from the ground upward by buildings or structures, except as follows:

- A. Fences;
- B. Canopies allowed under subsection B of Section 19.80.060;
- C. Accessory buildings in a rear yard;
- D. The ordinary projections of windows where the projection is at least eighteen inches above floor level, roofs, cornices, chimneys, flues and other ornamental features which project into a yard not more than three feet;
- E. Open or lattice-enclosed exterior stairways, located in a commercial or manufacturing zone, projecting into a yard not more than five feet;
- F. Structures less than eighteen inches in height from the finished ground surface.

**19.04.565 Yard, front.**

"Front yard" means a space on the same lot with a building, between the front line of the building and the front lot line, and extending across the full width of the lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the building.

#### **19.04.570 Yard, rear.**

"Rear yard" means a space on the same lot with a building, between the rear line of the building and the rear lot line, and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

#### **19.04.575 Yard, side.**

"Side yard" means a space on the same lot with a building, between the side line of the building and the side lot line, and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and the side line of the building.

### **Chapter 19.05 PLANNING COMMISSION**

#### **Sections:**

[19.05.010 Appointment—Term.](#)

[19.05.020 Vacancy—Removal.](#)

[19.05.030 Organization—Procedures.](#)

[19.05.040 Powers and duties.](#)

#### **19.05.010 Appointment—Term.**

A. The Town of Brighton planning commission shall consist of five members and up to two alternate members

B. Commissioners shall serve four-year terms (except for the initial terms as provided below) or longer until successors are appointed.

C. The initial members of the Commission shall be appointed as follows:

One appointee shall serve an initial term which shall expire on May 14, 2023, one appointee shall serve an initial term which shall expire on May 14, 2024, two appointees shall serve an initial term which shall expire on May 14, 2025, and one appointee shall serve an initial term which shall expire May 14, 2026.

D. Terms shall commence on May 15 of each year.

E. In the event a term of a member shall expire before a successor is appointed, the member shall continue to serve until a successor is appointed.

F. The members and alternate members of the planning commission are not required to reside within the Town of Brighton.

G. Upon expiration of a Commissioner's term, the seat shall be appointed by the mayor with the advice and consent of the Town council.



- H. Members of the Commission may serve successive terms.

**19.05.020 Vacancy—Removal.**

Any vacancy occurring on the planning commission by reason of death, resignation, removal or disqualification shall be promptly filled by the mayor with the advice and consent of the council for the unexpired term of such member. The mayor with the advice and consent of council may remove a member of the planning commission for cause after filing written charges against the member. The member shall be provided with a hearing on the charges if requested.

**19.05.030 Organization, Rules of order and procedure —Procedures.**

The planning commission shall elect a chairperson from its members who shall serve a one-year term and may serve successive terms. The planning commission may create and fill any other necessary offices it deems necessary and shall adopt rules of order and procedures for the conduct of its public meetings, the processing of applications, and for any other purpose the planning commission considers necessary for its proper function.

**19.05.040 Powers and duties.**

The planning commission shall:

- A. Prepare and recommend a general plan and amendments to the general plan to Brighton Town council;
- B. Recommend zoning ordinances and maps and amendments to zoning ordinances and maps to Brighton Town council;
- C. Recommend subdivision ordinances and amendments to those ordinances to Brighton Town council;
- D. Recommend approval or denial of subdivision applications to Brighton council;
- E. Approve or deny conditional use permits;
- F. Advise Brighton council on matters that the council directs;
- G. Provide other functions as specified in this chapter or as directed by Brighton council.

**Chapter 19.06 ZONES, MAPS, AND ZONE BOUNDARIES**  
**Sections:**

[19.06.010 Zones established.](#)

[19.06.030 Filing of this title and zoning maps.](#)

[19.06.040 Boundary location rules.](#)

#### **19.06.010 Zones established.**

For the purpose of this title, the Town of Brighton to which this title applies is divided into classes of zones, as follows:

Forestry zone	F-1
Forestry multifamily zone	FM-10
Forestry multifamily zone	FM-20
Forestry and recreation zone	FR-0.5
Forestry and recreation zone	FR-1
Forestry and recreation zone	FR-20
Commercial zone	C-V

#### **19.06.030 Filing of this title and zoning maps.**

This title and the maps shall be filed in the custody of the Brighton Town Clerk, and may be examined by the public subject to any reasonable regulations established by the Brighton Town Clerk.

#### **19.06.040 Boundary location rules.**

Where uncertainty exists as to the boundary of any zone, the following rules shall apply:

- A. Wherever the zone boundary is indicated as being approximately upon the centerline of a street, alley or block, or along a property line, then, unless otherwise definitely indicated on the map, the centerline of the street, alley or block, or such property line, shall be construed to be the boundary of the zone;
- B. Whenever such boundary line of such zone is indicated as being approximately at the line of any river, irrigation canal or other waterway or railroad right-of-way, or public park, or other public land, or any section line, then in such case the center of the stream, canal or waterway, or of the railroad right-of-way, or the boundary line of such public land or such section line shall be deemed to be the boundary of the zone;
- C. Where the application of the above rules does not clarify the zone boundary location, the land use hearing officer shall interpret the map.

## **Chapter 19.08      F-1 FORESTRY ZONE**

### **Sections:**

[19.08.010 Purpose of provisions.](#)

[19.08.020 Permitted uses.](#)

[19.08.030 Conditional uses.](#)

[19.08.040 Lot area.](#)

[19.08.050 Lot width.](#)

[19.08.060 Front yard.](#)

[19.08.070 Side yard.](#)

[19.08.080 Rear yard.](#)

[19.08.090 Building height.](#)

#### **19.08.010      Purpose of provisions.**

The purpose of the F-1 zone is to permit limited residential development as well as utilization and preservation of the natural environment and resources of the canyon areas in Brighton.

#### **19.08.020      Permitted uses.**

Permitted uses in the F-1 zone include:

- Accessory buildings and uses customarily incidental to the below;
- Home business, subject to Chapter 19.85;
- Home day care/preschool, subject to Section 19.04.293;
- Residential facility for persons with a disability;
- Single-family dwelling.

#### **19.08.030      Conditional uses.**

Conditional uses in the F-1 zone include:

- Agriculture;
- Cemetery, mortuary, etc.;
- Day care/preschool center (subject to Section 19.76.260);
- Forest industry; production of forest products;
- Golf course;
- Home day care/preschool, subject to Section 19.04.293;

- Hydroelectric dam;
- Pigeons, subject to health department regulations;
- Planned unit development;
- Private park and recreational grounds; private recreational camp or resort;
- Public and quasi-public use;
- Radio and/or television tower;
- Residential facility for elderly persons;
- Temporary buildings for uses incidental to construction work, which buildings must be removed upon completion or abandonment of the construction work. If such buildings are not removed within ninety days upon completion of construction and thirty days after notice, the building will be removed by Brighton at the expense of the owner;
- Underground record storage vaults;
- Water pumping plant and reservoir.

#### **19.08.040 Lot area.**

The minimum area for any dwelling in the F-1 zone shall be not less than twenty thousand square feet. The minimum lot area for any conditional use shall be determined by the planning commission. In no case shall the minimum area for a conditional use be less than one acre.

#### **19.08.050 Lot width.**

The minimum width for any dwelling lot in the F-1 zone shall be seventy-five feet.

#### **19.08.060 Front yard.**

In the F-1 zone, the minimum depth of the front yard for main buildings and for private garages which have a minimum side yard of eight feet shall be fifteen feet for lots facing on a state highway and five feet for lots facing on a Brighton road. All accessory buildings other than private garages which have a minimum side yard shall be located at least six feet in the rear of the main building.

#### **19.08.070 Side yard.**

In the F-1 zone, the minimum side yard for any dwelling shall be eight feet, and the total width of the two required side yards shall be not less than eighteen feet. Other main buildings shall have a minimum side yard of twenty feet, and the total width of the two side yards shall be not less than forty feet. The minimum side yard for a private garage shall be eight feet, except that private garages and other accessory buildings located in the rear and at least six feet away from the main building may have a

minimum side yard of one foot, provided that no private garage or other accessory building shall be located closer than ten feet to a dwelling on an adjacent lot. On corner lots, the side yard which faces on a street for both main and accessory buildings shall be not less than fifteen feet on state highways or eight feet on other streets.

#### **19.08.080 Rear yard.**

In the F-1 zone, the minimum rear yard for a main building shall be twenty-five feet, and for accessory buildings one foot, provided that on corner lots which rear upon the side yard of another lot, accessory buildings shall be located not closer than eight feet to such side yard.

#### **19.08.090 Building height.**

- A. Except as otherwise specifically provided in this title, no building or structure shall exceed the following height:
  - 1. Thirty feet on property where the slope of the original ground surface exceeds fifteen percent or the property is located in the hillside protection zone. The slope shall be determined using a line drawn from the highest point of elevation to the lowest point of elevation on the perimeter of a box which encircles the foundation line of the building or structure. The box shall extend for a distance of fifteen feet or to the property line, whichever is less, around the foundation line of the building or structure. The elevation shall be determined using a certified topographic survey with a maximum contour interval of two feet;
  - 2. Thirty-five feet on other properties;
- B. No dwelling structure shall contain less than one story.

### **Chapter 19.10 FM-10 AND FM-20 FORESTRY MULTIFAMILY ZONES**

#### **Sections:**

[19.10.010 Purpose of provisions.](#)

[19.10.020 Permitted uses.](#)

[19.10.030 Conditional uses.](#)

[19.10.040 Lot area, lot width and slope.](#)

[19.10.050 Limits of disturbance/setbacks.](#)

[19.10.060 Building height.](#)

[19.10.070 Density of development.](#)

[19.10.080 Natural hazards.](#)

[19.10.090 Water quality.](#)

[19.10.100 Grading.](#)

[19.10.110 Tree and vegetation protection.](#)

[19.10.120 Utilities.](#)

[19.10.130 Building location, construction and design.](#)

[19.10.140 Off-street parking.](#)

[19.10.150 Site development plan approval.](#)

[19.10.160 Applicability to lots of record and waivers from slope requirements.](#)

#### **19.10.010 Purpose of provisions.**

The purpose of the forestry multifamily zones is to permit development of certain areas in the foothill and canyon areas of Brighton for high-density residential, limited commercial, and other specified uses to the extent that such development is compatible with the protection of the natural and scenic resources of these areas for the continued benefit of future generations.

#### **19.10.020 Permitted uses.**

The following uses are permitted in the FM-10 and FM-20 zones subject to compliance with all applicable requirements set forth in this chapter including those relating to site and lot dimensions, development standards, and other regulations:

- A. Accessory uses and structures customarily incidental to permitted use;
- B. Agriculture, as defined in Section 19.04.020;
- C. Home day care/preschool for six or fewer children subject to the conditions set forth in Section 19.04.293;
- D. Class B beer outlet;
- E. Minor ski resort improvements, provided:
  - 1. That the privately-owned land areas on which such improvements are permitted constitute less than ten percent of the total land area utilized for the ski resort that the improvements support, and
  - 2. That at least ninety percent of the land area on which the improvements are developed, operated, and maintained is on public lands, and
  - 3. That the public agency responsible for the management and administration of such lands has approved a special use permit or similar regulatory authorization, and has assumed long-term administrative and enforcement responsibilities for such approvals, and
  - 4. That opportunities for public notice, review, and comment on the proposed improvements have been provided through a finalized National Environmental Policy Act (NEPA) or other comprehensive public review and comment process, and
  - 5. That such improvements are either;

- a. Essential to public safety, or
  - b. Required in association with the reasonable repair or maintenance of existing legally-established facilities and improvements, or
  - c. Essential to the continuation or extension of improvements expressly approved under the terms of a governmental land lease or use permit or by final action of the federal or state governmental agency with jurisdiction over the lands on which the improvements are located;
- F. Residential facility for elderly persons;
- G. Residential facility for persons with a disability;
- H. Restaurant liquor license;
- I. Short-term rentals provided that ;
  - 1. The on-site parking and the access to the site are available for use and maintained, including snow removal, throughout the entire year, and
  - 2. The dwelling unit is served by an approved drinking water supply and public sewer system that are capable of supporting the use throughout the entire year, and are approved by the health department prior to issuance of a license
- J. Single-family dwellings;
- K. Wireless telecommunication facilities, provided:
  - 1. The wireless telecommunication facility is a wall-mounted or roof-mounted facility, and
  - 2. The facility is mounted on a nonresidential building, and
  - 3. A computer-generated visual simulation of the proposed structure is submitted as part of the required site plan, and
  - 4. All other applicable requirements set forth in Chapter 19.83, "Wireless Telecommunications Facilities," are satisfied.

#### **19.10.030 Conditional uses.**

The following conditional uses are subject to the requirements of this chapter, all general and specific conditions, criteria, and approval procedures set forth in Chapter 19.84, "Conditional Uses," and, the procedures and provisions of Chapter 19.72, "Foothills and Canyons Overlay Zone"

The development services director may review and approve conditional use permits for ski resort facilities and improvements which satisfy the criteria set forth in subparts (E)(1) through (E)(4) of Section 19.10.020 of this chapter. In granting such approval within a foothills and canyon overlay zone, the development services director may waive and/or modify the regulations of Chapters 19.72 of this title in accordance with the procedures and criteria set forth in Section 19.72.060, "Administration and enforcement."

Ski resort facilities and improvements which do not satisfy the criteria of Section 19.10.020, subparts (E)(1) through (E)(4) of this chapter, as well as those which are referred to the planning commission by the development services director in accordance with Section 19.84.080 provisions of this title, shall be subject to review and approval by the planning commission. In its consideration of ski resort and public use development proposals in areas situated within the foothills and canyons overlay zone, the planning commission may waive and/or modify the regulations of Chapters 19.72 of this title in accordance with the procedures and criteria set forth in Section 19.72.060, "Administration and enforcement."

- A. Accessory uses and structures customarily incidental to a conditional use;
- B. Apartments, boardinghouse; lodging house, hotel; motel; resort hotel;
- C. Bed and breakfast homestay, provided that:
  - 1. The access to the site and the on-site parking are available for use and maintained, including snow removal, throughout the entire year, and
  - 2. An approved drinking water supply and wastewater disposal system is available that is capable of supporting the use throughout the entire year, and is approved by the health department prior to issuance of a license;
- D. Bed and breakfast inn, which may include a restaurant and conference rooms;
- E. Class C beer outlet;
- F. Commercial and private recreation;
- G. Day care/preschool center subject to the conditions set forth in Section 19.76.260;
- H. Dwelling group, provided:
  - 1. The parcel of ground on which the dwelling group, as defined in Section 19.04.190, is to be erected shall have an area equal to the aggregate of the minimum lot areas otherwise required in the zone for the number of individual dwelling structures in the group,
  - 2. A minimum of two parking spaces shall be provided for each dwelling unit. Parking spaces and vehicular maneuvering areas shall meet Brighton standards,
  - 3. The development or site plan shall provide a landscaped buffer area along the perimeter property lines and decorative adjacent to the buildings in appropriate locations, landscaping as specified in Chapter 19.77 of this title, and
  - 4. An approved drinking water supply and wastewater disposal system is available that is capable of supporting the use throughout the entire year, and is approved by the health department;
- I. Home day care/preschool with no less than seven and no more than twelve children, subject to the conditions set forth in Section 19.04.293;
- J. Living quarters for persons employed on the premises of any main use;



- K. Office incidental to main use;
- L. Package agency;
- M. Planned unit development subject to the conditions and requirements set forth in Chapter 19.78, "Planned unit development";
- N. Private nonprofit locker club;
- O. Public and quasi-public uses;
- P. Restaurant, boutique, gift shop, and other limited commercial uses determined by the planning commission to be of the same character as these listed and serving the needs of the visitors and residents of the canyons;
- Q. (reserved)
- R. Ski resorts;
- S. State store;
- T. Temporary structures;
- U. Two-family dwelling; three-family dwelling; four-family dwelling; multiple-family dwelling;
- V. Wireless telecommunication facilities, as that term and all related terms are defined in Section 19.83.020, provided:
  - 1. The wireless telecommunication facility is either a wall-mounted, roof-mounted, or monopole facility. Facilities located on lattice towers are prohibited, and
  - 2. Any grading for the facility, including access roads and trenching for utilities, shall comply with the Uniform Building Code, and
  - 3. The facility complies with the requirements for development set forth in the foothills and canyons overlay zone, Chapter 19.72, including development standards for grading, wildlife habitat protection, tree and vegetation protection, natural hazards, and utilities, and standards for establishing limits of disturbance, and
  - 4. Site placement and facility color shall be carefully considered to blend in with the natural surroundings, and
  - 5. Continuous outside lighting is prohibited unless required by the FAA for monopole facilities, and
  - 6. The maximum height for monopole facilities shall be sixty feet, and
  - 7. A computer-generated visual simulation of the proposed structure is submitted as part of the required site plan and shall show all structures including but not limited to monopoles, antennas, and equipment buildings, and
  - 8. All other applicable requirements set forth in Chapter 19.83, "Wireless Telecommunications Facilities," are satisfied.

#### **19.10.040 Lot area, lot width and slope.**

- A. Minimum lot area: One-half acre;
- B. Minimum lot width: One hundred feet;
- C. Lots Fronting on Cul-de-Sacs—Lot Width. The minimum lot width of any lot fronting on a cul-de-sac, partial cul-de-sac, or oblique angle-curved street from which the lot lines radiate shall be measured at a distance of fifty feet from the front lot line;
- D. Slope Requirements. All development in the FM zones shall be subject to the slope protection standards set forth in the foothills and canyons overlay zone, Section 19.72.030B, "Slope Protection Standards" and Section 19.72.030D, "Streets and Roads."

#### **19.10.050 Limits of disturbance/setbacks.**

Because of the unique nature of the topography and climatic conditions of the foothill and canyon areas, limits of disturbance and setbacks for permitted uses including single-family dwellings and accessory structures in the FM zones shall be determined on a case-by-case basis by the development services director. Limits of disturbance and setbacks for conditional uses shall be as finally approved by the planning commission upon the recommendation of the development services director (see Chapter 19.72). All determinations of limits of disturbance shall be subject to the conditions and criteria set forth in the foothills and canyons overlay zone, Section 19.72.040, "Establishment of limits of disturbance."

#### **19.10.060 Building height.**

- A. Conditional Uses—Case-by-Case Determination. Because of the unique nature of the topography, vegetation, soils, climatic and aesthetic characteristics of the foothills and canyons, the allowable height of conditional use structures in the FM-10 and FM-20 zones shall be determined on a case-by-case basis by the planning commission, subject to consideration of the following criteria:
  - 1. Protection of the natural setting;
  - 2. Relationship to other structures and open spaces;
  - 3. Contour intervals and topographic features;
  - 4. To the maximum extent feasible, the building height should not exceed the height of surrounding trees and vegetation;
  - 5. Protection of scenic vistas, especially views from public rights-of-way and public lands; and
  - 6. Other elements deemed appropriate to ensure that the provisions of Section 19.10.010 are met.

- B. Multifamily Residential Conditional Uses—Maximum Height. Notwithstanding the case-by-case determination permitted by this section, the maximum height of a residential conditional use in the FM zones shall not exceed one hundred feet.
- C. Single-Family Dwellings. Except as otherwise specifically provided in this title, single-family dwellings shall not exceed the following heights:
  - 1. Thirty feet on property where the original slope exceeds fifteen percent or the property is located in the foothills and canyons overlay zone. For purposes of this section, slope shall be determined using a line drawn from the highest point of elevation to the lowest point of elevation on the perimeter of a box which encircles the foundation line of the single-family dwelling. The box shall extend for a distance of fifteen feet or to the property line, whichever is less, around the foundation line of the single-family dwelling. The elevation shall be determined using a certified topographic survey with a maximum contour interval of two feet;
  - 2. Thirty-five feet for single-family dwellings on all other properties;
  - 3. No single-family dwelling structure shall contain less than one story.

**19.10.070 Density of development.**

- A. Residential Uses Other Than Single-Family. Maximum density for residential dwelling units, except single-family dwellings, shall be as follows:

Zone	Maximum Density
FM-10	10 dwelling units or 20 guestrooms per net developable acre
FM-20	20 dwelling units or 40 guestrooms per net developable acre.

- B. Net Developable Acreage Defined. For purposes of this section, "net developable acreage" is defined as land with all of the following:
  - 1. Average slope less than thirty percent;
  - 2. Soils of a suitable depth and type based on soil exploration and percolation tests in accordance with the regulations of the Utah Department of Environmental Quality in order to ensure against adverse impacts on surface water and groundwater quality;
  - 3. Minimum distance from any stream corridor of one hundred feet, as "stream corridor" is defined in Section 19.72.070 of this title (Overlay zone); and
  - 4. Free from any identified natural hazard such as flood, avalanche, landslide, high water table, and similar features. See Chapter 19.74, "Floodplain Hazard Regulations," and Chapter 19.75, "Natural Hazard Areas."

#### **19.10.080 Natural hazards.**

Construction of permanent structures in areas subject to natural hazards, including floods, landslides, and avalanches, shall be subject to the requirements and limitations set forth in Chapter 19.74, "Floodplain Hazard Regulations," and Chapter 19.75, "Natural Hazard Areas."

#### **19.10.090 Water quality.**

- A. Department of Health Approval Required. Prior to issuance of a conditional use permit or site plan approval for all uses in the FM zones, regardless of size or number of units, the applicant shall receive the written approval of the health department certifying that all water quality and health requirements have been satisfied and that the proposed construction will not damage the natural watershed.
- B. Developments of More than Nine Lots/Units. Developments of more than nine lots or units shall receive the written approval of the Utah Department of Environmental Quality certifying that the culinary water system and the sewerage system meet all state water quality and health requirements. All approvals shall be in accordance with the regulations of the Utah Department of Environmental Quality relating to culinary water supply and wastewater disposal.
- C. Applicable State Regulations and Standards. The applicable state regulations for individual wastewater disposal systems can be found in the Utah Administrative Code, Sections R317-501 through R317-513, as amended from time to time. The applicable state regulations for culinary water supply can be found in Utah Administrative Code, as amended from time to time.
- D. Subsequent Changes in Site Plan. If, after department of health or Utah Department of Environmental Quality review and action pursuant to this section, a site plan is modified such that the original limits of disturbance changes the applicant must submit the modified site plan to the appropriate health agency for retesting and a new determination whether all state wastewater and culinary water standards have been met. Evidence of such retesting must be submitted prior to final approval of the site plan.

#### **19.10.100 Grading.**

Grading shall be permitted only in conformance with the standards and limitations set forth in the foothills and canyons overlay zone, Section 19.72.070, "Grading Standards."

#### **19.10.110 Tree and vegetation protection.**

Removal of trees or natural vegetation shall not be permitted except in conformance with the standards and requirements set forth in the foothills and canyons overlay zone, Section 19.72.110, "Tree and Vegetation Protection."

#### **19.10.120 Utilities.**

All utilities in the FM zones shall be placed underground, except as may be provided for in Chapter 19.79, "Utility and Facility System Placement Regulations."

#### **19.10.130 Building location, construction and design.**

All buildings and accessory structures in the FM zones, including single-family and multifamily dwellings, shall be located, constructed, and designed in compliance with the development standards set forth in the foothills and canyons overlay zone, Section 19.72.030, "Development standards."

#### **19.10.140 Off-street parking.**

- A. Permitted Uses. The development services director or his designee shall determine the number of off-street parking spaces required, provided the minimum requirements of Chapter 19.80 are met, except that the planning commission may modify the requirements of Sections 19.80.060 through 19.80.120 if such modification will better preserve views, protect existing trees/vegetation, or reduce the amount of disturbance to steep slopes, wetlands, streams, or other sensitive environmental areas.
- B. Conditional Uses. The planning commission shall determine the number of off-street parking spaces required, provided the minimum requirements of Chapter 19.80 shall be met, except that for hotels and resort hotels one-half parking space shall be provided for each guestroom. The planning commission may modify the requirements of Sections 19.80.060 through 19.80.120 if such modification will better preserve views, protect existing trees/vegetation, or reduce the amount of disturbance to steep slopes, wetlands, streams, or other sensitive environmental areas.

#### **19.10.150 Site development plan approval.**

Site development plans for all development in the FM zone, including single-family dwellings, shall be approved prior to issuance of any building permits pursuant to the site development plan approval requirements set forth in the foothills and canyons overlay zone, Section 19.72.050, "Approval procedure for developments in the foothills and canyons overlay zone."

#### **19.10.160 Applicability to lots of record and waivers from slope requirements.**

- A. Applicable to Lots of Record. All standards and requirements for development in the FM zones as set forth in this chapter shall apply to development on lots that were recorded prior to the enactment date of the ordinance by Salt Lake County originally adopting said standards and requirements.
- B. Lots of Record—Waivers from Slope Requirements. For properties in the FM zones also located in the foothills and canyons overlay zone (see Chapter 19.72), the

planning commission may waive slope requirements for streets/roads and slope protection requirements for lots of record and lots and plans of subdivisions that were provided prior to the enactment of Chapter 19.72, provided the conditions and criteria set forth in Section 19.72.060A are satisfied.

## **Chapter 19.12      FR-0.5, FR-1, FR-20, FORESTRY AND RECREATION ZONES**

### **Sections:**

[19.12.010 Purpose of provisions.](#)

[19.12.020 Permitted uses.](#)

[19.12.030 Conditional uses.](#)

[19.12.040 Lot area, lot width, density, and slope.](#)

[19.12.050 Limits of disturbance/setbacks.](#)

[19.12.060 Building height.](#)

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[19.12.120 Building location, construction, and design.](#)

[19.12.130 Off-street parking.](#)

[19.12.140 Site development plan approval.](#)

[19.12.150 Applicability to lots of record and waivers from slope requirements.](#)

### **19.12.010      Purpose of provisions.**

The purpose of the forestry and recreation zones is to permit the development of the foothill and canyon areas of Brighton for forestry, recreation, and other specified uses to the extent such development is compatible with the protection of the natural and scenic resources of these areas for the continued benefit of future generations.

### **19.12.020      Permitted uses.**

The following uses are permitted in the FR zones subject to compliance with all applicable requirements set forth in this chapter including those relating to site and lot dimensions, development standards, and other regulations:

- A. Accessory uses and structures customarily incidental to a permitted use;
- B. Agriculture, as defined in Section 19.04.020;

- C. Home business, subject to Chapter 19.85;
- D. Home day care/preschool for six or fewer children subject to the conditions set forth in Section 19.04.293;
- E. Household pets, provided the area proposed for animals is not in a watershed area, primary water supply recharge area, or drinking water source protection area, as determined by the Salt Lake Valley health department or Utah Department of Environmental Quality;
- F. Minor ski resort improvements, provided:
  - 1. That the privately owned land areas on which such improvements are permitted constitute less than ten percent of the total land area utilized for the ski resort that the improvements support, and
  - 2. That at least ninety percent of the land area on which the improvements are developed, operated, and maintained is on public lands, and
  - 3. That the public agency responsible for the management and administration of such lands has previously approved a special use permit or similar regulatory authorization, and has assumed long-term administrative and enforcement responsibilities for such approvals, and
  - 4. That opportunities for public notice, review, and comment on the proposed improvements have been provided through a finalized National Environmental Policy Act (NEPA) or other comprehensive public review and comment process, and
  - 5. That such improvements are either:
    - a. Essential to public safety, or
    - b. Required in association with the reasonable repair or maintenance of existing legally established facilities and improvements, or
    - c. Essential to the continuation or extension of improvements approved under the terms of a governmental land lease or use permit or by final action of the federal or state governmental agency with jurisdiction over the lands on which the improvements are located;
- G. Residential facility for persons with a disability;
- H. Short-term rentals provided that ;
  - 1. The on-site parking and the access to the site are available for use and maintained, including snow removal, throughout the entire year, and
  - 2. The dwelling unit is served by an approved drinking water supply and public sewer system that are capable of supporting the use throughout the entire year, and are approved by the health department prior to issuance of a license
- I. Single-family dwellings;
- J. Wireless telecommunication facilities; provided:

1. The wireless telecommunication facility is a wall-mounted or roof-mounted facility, and
2. The facility is mounted on a nonresidential building, and
3. A computer-generated visual simulation of the proposed structure is submitted as part of the required site plan, and
4. All other applicable requirements set forth in Chapter 19.83, "Wireless Telecommunications Facilities," are satisfied.

#### **19.12.030 Conditional uses.**

The following conditional uses are subject to the requirements of this chapter, all general and specific conditions, criteria, and approval procedures set forth in Chapter 19.84, "Conditional Uses," and for properties situated within the foothills and canyons overlay zone, the procedures and provisions of Chapter 19.72, "Foothills and Canyons Overlay Zone"

The development services director may review and approve conditional use permits for ski resort facilities and improvements which satisfy the criteria set forth in subparts (F)(1) through (F)(4) of Section 19.12.020 of this chapter. In granting such approval within a foothills and canyon overlay zone, the development services director may waive and/or modify the regulations of Chapters 19.72 of this title in accordance with the procedures and criteria set forth in Section 19.72.060, "Administration and enforcement."

Ski resort facilities and improvements which do not satisfy the criteria of Section 19.12.020, subparts (F)(1) through (F)(4) of this chapter, as well as those which are referred to the planning commission by the development services director in accordance with Section 19.84.080 provisions of this title, shall be subject to review and approval by the planning commission. In its consideration of ski resort, public use, and mineral extraction and processing development proposals in areas situated within the foothills and canyons overlay zone, the planning commission may waive and/or modify the regulations of Chapters 19.72 of this title in accordance with the procedures and criteria set forth in Section 19.72.060, "Administration and enforcement."

- A. Accessory uses and structures customarily incidental to a conditional use;
- B. Bed and breakfast homestay; provided:
  1. The access to the site and the on-site parking are available for use and maintained, including snow removal, throughout the entire year, and
  2. An approved drinking water supply and wastewater disposal system is available that is capable of supporting the use throughout the entire year, and is approved by the health department prior to issuance of a license;
- C. Commercial and private recreation;
- D. Day care/preschool center, subject to the conditions set forth in Section 19.76.260;



- E. Dwelling group, provided:
  - 1. The parcel of ground on which the dwelling group, as defined in Section 19.04.190, is to be erected shall have an area equal to the aggregate of the minimum lot areas otherwise required in the zone for the number of individual dwelling structures in the group,
  - 2. A minimum of two parking spaces shall be provided for each dwelling unit. Parking spaces and vehicular maneuvering areas shall meet Brighton standards,
  - 3. The development or site plan shall provide a landscaped buffer area along the perimeter property lines and decorative adjacent to the buildings in appropriate locations, landscaping as specified in Chapter 19.77 of this title, and
  - 4. An approved drinking water supply and wastewater disposal system is available that is capable of supporting the use throughout the entire year, and is approved by the health department;
- F. Home day care/preschool for no fewer than seven nor more than twelve children, subject to the conditions set forth in Section 19.04.293;
- G. Horses, and animals and fowl for family food production, as defined in Section 19.04.235 of this title, provided that:
  - 1. The area proposed for animals is not a watershed area, as determined by the health department, and
  - 2. The use will not create unreasonable on-site erosion, downstream siltation, bacteriological or biological pollution in subsurface or surface waters, destruction of vegetation, air pollution, including dust and odors or other detrimental environmental effects. In determining the environmental effects of the use, the planning commission shall seek and consider recommendations from the health department and other concerned agencies, and may require the applicant to submit scientific studies including analysis of slope, soils, vegetative cover, availability of water, and other elements necessary to establish environmental effects of the proposed use, and
  - 3. The planning commission may limit the number of animals and fowl, or limit the amount of ground to be devoted to such use, or make other conditions to ensure environmental protection, and
  - 4. After the use is established, if the planning commission determines, based on findings of facts, that unreasonable environmental degradation is occurring, the planning commission may, after notification to the applicant and hearing, establish additional conditions or order the use to be abated;
- H. Living quarters for persons employed on the premises of any main use;
- I. Logging and lumber processing, provided evidence is presented of approval by any federal or state agencies with jurisdiction over such use;

J. Mineral extraction and processing; provided that:

1. The applicant shall comply with all applicable regulations of this chapter, including but not limited to site grading and drainage, landscaping, and environmental standards, and all applicable provisions in Chapter 19.72, "Foothills and Canyons Overlay Zone," and
2. Such use shall not be located within one thousand feet of any residential use or lot, and
3. The perimeter of the site shall be screened from adjacent properties and roads with a buffer yard of adequate width and opacity as determined by Brighton, and
4. The applicant submits a plan, prepared by a qualified professional, that shows the location of existing and proposed watercourses and drainage systems, including lakes, ponds, and detention basins, and
5. Water accumulating on the site shall be removed to a drainage way and any contaminated water shall be treated before being allowed to enter a drainage way, and
6. The applicant shall present evidence of all necessary state and/or federal permits and approvals, and
7. Access shall be provided, either directly or over a private haul road, to an arterial street that is designed for heavy truck traffic, and
8. A haul road entering the site from a public street or road shall be paved for at least a distance of five hundred feet from the public street or road, and
9. The property shall be posted with a notice of dangerous conditions and warning trespassers away, and
10. Operations shall be conducted in compliance with health department regulations and standards regarding noise, odor, vibrations, dust, blowing debris, hazardous materials, and air quality, and
11. The applicant shall submit a general plan for proposed rehabilitation of the site, including a schedule of rehabilitation measures and proposed ground cover and landscaping to be installed following the completion of the operation or the expiration of the conditional use approval (see Sections 19.72.110, "Tree and Vegetation Protection," and 19.72.070, "Grading Standards"), and
12. If a change in ownership occurs, the new owner shall submit a new application for conditional use approval. Approval of the new application shall not be granted until all new federal and/or state permits are issued to the new owner, and
13. Any suspension or revocation of required state or federal permits shall constitute a violation of this chapter and will result in automatic suspension or revocation of all Brighton approvals and permits, and

14. Brighton may require a bond in favor of Brighton to be posted by the applicant to cover damages that may occur to Brighton roads as a result of hauling materials excavated from the permitted site. The amount of the bond less any sums needed to correct damages shall be refunded to the excavator within one year after the conclusion of the excavation, and
  15. Brighton may impose additional conditions addressing access, circulation, operations, noise, hours of operation, and similar impacts it deems necessary to minimize potential significant impacts on adjacent properties and streets;
- K. Offices incidental to main use;
- L. Planned unit development subject to the conditions and requirements set forth in Chapter 19.78, "Planned Unit Developments";
- M. Public and quasi-public uses;
- N. Residential facility for elderly persons;
- O. (Reserved)
- P. Ski resorts;
- Q. Temporary structures;
- R. Underground record storage vaults, provided:
1. The facility complies with the requirements for development set forth in Chapter 19.72, "Foothills and Canyons Overlay Zone" including but not limited to development standards for grading, wildlife habitat protection, tree and vegetation protection, outdoor lighting, natural hazards, and utilities, and standards for establishing limits of disturbance, and
  2. Excavation of the site to construct the underground vaults shall be conducted as follows:
    - a. Access to the site shall be controlled through one point, and
    - b. The excavator shall post the property, noting that a dangerous condition exists and warning trespassers away, and
    - c. The excavator shall take care that trucks leaving the property are not overloaded and that spilled material is removed from adjacent public roads not less frequently than once every twenty-four hours while the excavation is in progress, and
    - d. Water accumulating on the site shall be removed to a drainage way and any contaminated water shall be treated before being allowed to enter a drainage way, and
    - e. When the operation ceases for a period of at least ninety days or moves from one area of the site to another, slope and graded areas remaining shall be left in accordance with the requirements for grading and revegetation set forth in Sections 19.72.030(B) and (C) of the foothills and canyons overlay district, and

- f. Brighton may require a bond in favor of Brighton to be posted by the excavator to cover damages that may occur to Brighton roads as a result of hauling materials excavated from the permitted site. The amount of the bond less any sums needed to correct damages shall be refunded to the excavator within one year after the conclusion of the excavation.
3. The applicant shall submit a general plan for proposed rehabilitation of the excavated site, including a schedule of rehabilitation measures and proposed ground cover and landscaping to be installed following the completion of the excavation;
- S. Wireless telecommunication facilities, as that term and all related terms are defined in Section 19.83.020, provided:
  1. The wireless telecommunication facility is either a wall-mounted, roof-mounted, or monopole facility. Facilities located on lattice towers are prohibited, and
  2. Any grading for the facility, including access roads and trenching for utilities, shall comply with the Uniform Building Code, and
  3. The facility complies with the requirements for development set forth in the foothills and canyons overlay zone, Chapter 19.72, including development standards for grading, wildlife habitat protection, tree and vegetation protection, natural hazards, and utilities, and standards for establishing limits of disturbance, and
  4. Site placement and facility color shall be carefully considered to blend in with the natural surroundings, and
  5. Continuous outside lighting is prohibited unless required by the FAA for monopole facilities, and
  6. The maximum height for monopole facilities shall be sixty feet, and
  7. A computer-generated visual simulation of the proposed structure is submitted as part of the required site plan and shall show all structures including but not limited to monopoles, antennas, and equipment buildings; and all other applicable requirements set forth in Chapter 19.83, "Wireless Telecommunications Facilities," are satisfied.
- S. Water treatment, water storage, and watershed management facilities

**19.12.040 Lot area, lot width, density, and slope.**

**A. Lot Area, Lot Width, and Density Requirements:**

District	Minimum Lot Area	Minimum Lot Width	Maximum Residential Density (dwelling units per gross acre)
FR-0.5	½ acre	100 feet	2 d.u. per gross acre

FR-1	1 acre	200 feet	1 d.u. per gross acre
FR-20	20 acres	300 feet	1 d.u. per 20 gross acres

- B. Measurement of Lot Width. The minimum lot width of any lot shall be measured at a distance of fifty feet from the front lot line.
- C. Slope Requirements. All development in the FR zones shall be subject to the slope protection standards set forth in the foothills and canyons overlay zone, Section 19.72.030B, "Slope Protection Standards" and Section 19.72.030D, "Streets and Roads."

#### **19.12.050 Limits of disturbance/setbacks.**

Because of the unique nature of the topography and climatic conditions of the foothill and canyon areas, limits of disturbance and setbacks for permitted uses including single-family dwellings and accessory structures in the FR zones shall be determined on a case-by-case basis by the development services director. Limits of disturbance and setbacks for conditional uses shall be as finally approved by the planning commission, upon the recommendation of the development services director (see Chapter 19.72). All determinations of limits of disturbance shall be subject to the conditions and criteria set forth in the foothills and canyons overlay zone, Section 19.72.040, "Establishment of limits of disturbance."

#### **19.12.060 Building height.**

- A. Except as otherwise specifically provided in this title, no building or structure shall exceed the following heights:
  - 1. Thirty feet on property where the original slope exceeds fifteen percent or the property is located in the foothills and canyons overlay zone. For purposes of this section, the slope shall be determined using a line drawn from the highest point of elevation to the lowest point of elevation on the perimeter of a box which encircles the foundation line of the building or structure. The box shall extend for a distance of fifteen feet or to the property line, whichever is less, around the foundation line of the building or structure. The elevation shall be determined using a certified topographic survey with a maximum contour interval of two feet.
  - 2. Thirty-five feet on other properties.
- B. No single-family dwelling structure shall contain less than one story.

#### **19.12.070 Natural hazards.**

Construction of permanent structures in areas subject to natural hazards, including floods, landslides, and avalanches, shall be subject to the requirements and limitations set forth in Chapter 19.74, "Floodplain Hazard Regulations," and Chapter 19.75, "Natural Hazard Areas."

#### **19.12.080 Water quality.**

- A. Department of Health Approval Required. Prior to issuance of a conditional use permit or site development plan approval for all uses in the FR zones, regardless of size or number of units, the applicant shall receive the written approval of the board of health certifying that all water quality and health requirements have been satisfied and that the proposed construction will not damage the natural watershed.
- B. Developments of More than Nine Lots/Units. Developments of more than nine lots or units shall receive the written approval of the Utah Department of Environmental Quality certifying that the culinary water system and the sewerage system meet all state water quality and health requirements. All approvals shall be in accordance with the regulations of the Utah Department of Environmental Quality relating to culinary water supply and wastewater disposal.
- C. Applicable State Regulations and Standards. The applicable state regulations for individual wastewater disposal systems can be found in the Utah Administrative Code, Sections R317-501 through R317-513, as amended from time to time. The applicable state regulations for culinary water supply can be found in Utah Administrative Code, as amended from time to time.
- D. Subsequent Changes in Site Plan. If after health department or Utah Department of Environmental Quality review and action pursuant to this section, a site development plan is modified such that the original limits of disturbance change, the applicant must submit the modified site plan to the appropriate health agency for retesting and a new determination whether all state wastewater and culinary water standards have been met. Evidence of such retesting must be submitted prior to final approval of the site development plan.

#### **19.12.090 Grading.**

Grading shall be permitted only in conformance with the standards and limitations set forth in the foothills and canyons overlay zone, Section 19.72.070, "Grading Standards."

#### **19.12.100 Tree and vegetation protection.**

Removal of trees or natural vegetation shall not be permitted except in conformance with the standards and requirements set forth in the foothills and canyons overlay zone, Section 19.72.110, "Tree and Vegetation Protection."

#### **19.12.110 Utilities.**

All utilities in the FR zones shall be placed underground, except as may be provided for in Chapter 19.79, "Utility and Facility System Placement Regulations."

#### **19.12.120 Building location, construction, and design.**

All buildings and accessory structures in the FR zones, including single-family dwellings, shall be located, constructed, and designed in compliance with the development standards set forth in the foothills and canyons overlay zone, Section 19.72.030, "Development Approval standards."

#### **19.12.130 Off-street parking.**

- A. Permitted Uses. The planning and development services division director shall determine the number of off-street parking spaces required, provided the minimum requirements of Chapter 19.80 are met, except that the planning commission may modify the requirements of Sections 19.80.060 through 19.80.120 if such modification will better preserve views, protect existing trees/vegetation, or reduce the amount of disturbance to steep slopes, wetlands, streams, or other sensitive environmental areas.
- B. Conditional Uses. The planning commission shall determine the number of off-street parking spaces required provided the minimum requirements of Chapter 19.80 are met, except that the planning commission may modify the requirements of Sections 19.80.060 through 19.80.120 if such modification will better preserve views, protect existing trees/vegetation, or reduce the amount of disturbance to steep slopes, wetlands, streams, or other sensitive environmental areas.
- C. Covered parking is encouraged for all developments in the FR zone.

#### **19.12.140 Site development plan approval.**

Site development plans for all development in the FR zone, including single-family dwellings, shall be approved prior to issuance of any building permits pursuant to the site development plan approval requirements set forth in the foothills and canyons overlay zone, Section 19.72.030, "FCOZ Development approval procedures."

#### **19.12.150 Applicability to lots of record and waivers from slope requirements.**

- A. Applicable to Lots of Record. All standards and requirements for development in the FR zones as set forth in this chapter shall apply to development on lots and in subdivisions that were recorded prior to the enactment date of the ordinance codified in this chapter.
- B. Lots of Record—Waivers from Slope Requirements. For properties in the FR zones also located in the foothills and canyons overlay zone (see Chapter 19.72), the planning commission may waive grade requirements for streets/roads and slope

protection requirements for lots of record and lots and plans of subdivisions that were approved prior to the enactment of Chapter 19.72, provided the conditions and criteria set forth in Section 19.72.060A are satisfied.

## **Chapter 19.60      C-V COMMERCIAL ZONE**

### **Sections:**

- [19.60.010 Purpose of provisions.](#)
- [19.60.020 Permitted uses.](#)
- [19.60.030 Conditional uses.](#)
- [19.60.040 Board of health approval.](#)
- [19.60.050 Building height.](#)
- [19.60.060 Lot area, coverage and yard requirements.](#)
- [19.60.070 Maximum coverage.](#)
- [19.60.080 Natural hazards.](#)
- [19.60.090 Grading—Permit required.](#)
- [19.60.100 Natural vegetation.](#)
- [19.60.110 Building materials.](#)
- [19.60.120 Canyon areas—Special provisions applicable.](#)
- [19.60.130 Canyon areas—Lot area, width and slope.](#)
- [19.60.140 Canyon areas—Yards.](#)
- [19.60.150 Canyon areas—Building height.](#)
- [19.60.160 Canyon areas—Maximum density.](#)
- [19.60.170 Canyon areas—Off-street parking.](#)
- [19.60.180 Canyon areas—Utilities.](#)
- [19.60.200 Lots of record.](#)

### **19.60.010      Purpose of provisions.**

The purpose of the C-V zone is to provide for areas in appropriate locations where commercial centers providing for the needs of tourists and travelers may be established, maintained and protected, subject to conditional use approval by the planning commission. The regulations of this zone are designed to encourage the provision of transient housing facilities, restaurants, service stations, and other commercial activities providing for the convenience, welfare or entertainment of the traveler.



#### **19.60.020 Permitted uses.**

Permitted uses in the C-V zone include:

- A. Accessory uses customarily incidental to a conditional and permitted use;
- B. Agriculture.

#### **19.60.030 Conditional uses.**

Conditional uses in the C-V zone include:

- Antique shop without outside display;
- Any other establishment for the service of visitors, determined by the planning commission to be of the same general character as the above uses;
- Art gallery;
- Automobile service station, campground and travel trailer park;
- Bed and breakfast inn, which may include a restaurant and conference meeting rooms;
- Class A beer outlet;
- Class B beer outlet;
- Class C fireworks store;
- Handicraft shop;
- Mobile store provided it meets the following requirements:
  - A. A location on improved property including a main building with paved parking, and landscaping, curb, gutter and sidewalk if required by Brighton.
  - B. A maximum display area of one hundred square feet outside the portable structure, a minimum of ten feet behind the property line, not on landscaped areas, and not obstructing access to the property.
  - C. Compliance with the sign ordinance.
  - D. The structures comply with the yard requirements of the zone.
  - E. The mobile store including display area shall not be located within the clear view of intersecting streets.
  - F. Written approval from the property owner to locate on the site.
- Public or quasi-public use;
- Recreation, commercial;
- Restaurant; drive-in refreshment stand;
- Restaurant liquor license;
- Shared parking;

- State-approved liquor and/or beer outlet on state-owned property;
- Tourist court; motel; motor hotel.

**19.60.040 Board of health approval.**

Prior to issuance of a conditional use permit or site plan approval for all uses, regardless of size or number of units, the applicant shall receive the written approval of the board of health certifying that all health requirements have been satisfied and that the proposed construction will not damage the natural watershed. In addition, developments of more than nine lots or more than nine units shall receive the written approval of the State Division of Health certifying the culinary water system and the sewerage system. All approvals shall be in accordance with the regulations of the State Division of Health relating to culinary water supply and wastewater disposal.

**19.60.050 Building height.**

No building or structure in the C-V zone shall exceed three stories or thirty feet in height.

**19.60.060 Lot area, coverage and yard requirements.**

The following minimum requirements shall be observed in the C-V zone, except where increased for conditional uses:

Lot Area	Lot Coverage	Yard in Feet		
(Sq. Ft.)	(Max Percent)	Front	Side	Rear
10,000	40	20	None	10 feet

**19.60.070 Maximum coverage.**

In the C-V zone, the maximum coverage for the aggregate of all buildings, paved surfaces and graded areas shall be twenty-five percent of the site area.

**19.60.080 Natural hazards.**

In the C-V zone, construction of permanent structures is not permitted in areas subject to hazards such as floods, landslides and avalanches.

#### **19.60.090 Grading—Permit required.**

In C-V zones, to eliminate the possibility of erosion and unsightly scars on the mountain slopes, cut-and-fill shall be controlled by standards adopted by the planning commission, which are based on slope and grade analysis, for construction of access roads, private rights-of-way, and building sites. All cut-and-fill surfaces shall be replanted and maintained to negate the possibility of erosion and scarring. All grading shall also comply with the requirements of the Uniform Building Code as adopted in Chapter 15.08, Uniform Building Code.

#### **19.60.100 Natural vegetation.**

Natural vegetation shall not be removed in the C-V zone unless the site plan and the plan for vegetation clearing is approved by the planning commission for conditional uses, or the development services division director for permitted uses, subject to all the provisions of this chapter.

#### **19.60.110 Building materials.**

In the C-V zone, buildings shall be designed to preserve the natural beauty of the canyon area. Only those building materials which will blend harmoniously into the natural environment shall be permitted. The use of wood, stone and other harmonious materials is encouraged, and the use of bland, unpainted concrete blocks and unpainted metal is prohibited on exterior surfaces.

#### **19.60.120 Canyon areas—Special provisions applicable.**

Developments in the C-V zone shall be subject to the provisions of Sections 19.10.040 through 19.10.160 of this title, and as set out in Sections 19.60.130 through 19.60.180 of this chapter.

#### **19.60.130 Canyon areas—Lot area, width and slope.**

In C-V zones, the minimum lot area shall be one-half acre. The minimum width of any lot shall be one hundred feet. Construction is not permitted where the slope exceeds thirty percent. Roads and other vehicular routes shall not cross property having a slope greater than thirty percent unless, after review by the planning commission, it is determined that:

- A. Appropriate engineering measures can be taken to minimize the impact of the cuts and fills, consistent with the purpose of this chapter; and
- B. The environment and aesthetics of the area will not be significantly affected.

#### **19.60.140 Canyon areas—Yards.**

In the C-V zone, because of the unique nature of the topography and climatic conditions of the canyon areas, the side, rear and front yard requirements will be determined on an individual basis by the planning commission for conditional uses, and by the development services division director for single-family dwellings.

#### **19.60.150 Canyon areas—Building height.**

- A. In the C-V zone, the unique nature of the topography, vegetation, soils, climatic and aesthetic characteristics of the canyons defy uniform regulations, and require that the heights of structures be determined on an individual basis. Maximum and minimum heights of all conditional uses shall be determined by the planning commission based on a careful analysis of the following:
1. Natural setting;
  2. Relationship to other structures and open spaces;
  3. Contour intervals and topographic features;
  4. Height, density and type of vegetation;
  5. Scenic vistas;
  6. Other elements deemed appropriate to ensure that the provisions of Section 19.10.010 are met.
- B. Except as otherwise specifically provided in this Title no single family dwelling shall exceed the following height:
1. Thirty feet on property where the slope of the original ground surface exceeds fifteen percent or the property is located in the hillside protection zone. The slope shall be determined using a line drawn from the highest point of elevation to the lowest point of elevation on the perimeter of a box which encircles the foundation line of the single-family dwelling. Said box shall extend for a distance of fifteen feet or to the property line, whichever is less, around the foundation line of the single-family dwelling. The elevation shall be determined using a certified topographic survey with a maximum contour interval of two feet.
  2. Thirty-five feet on other properties;
  3. No single-family dwelling structure shall contain less than one story.

#### **19.60.160 Canyon areas—Maximum density.**

In the C-V zone, the maximum density for residential dwelling units, except single-family dwellings, shall be as follows:

Zone	Maximum Density
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FM-10	10 dwelling units or 20 guestrooms per net developable acre
FM-20	20 dwelling units or 40 guestrooms per net developable acre

#### **19.60.170 Canyon areas—Off-street parking.**

In the C-V zone, for conditional uses the planning commission shall determine the number of parking spaces required. For permitted uses, the planning and development services division director shall determine the number of parking spaces required. However, the minimum requirements of Chapter 19.80 shall be provided, except that for hotels and resort hotels, one-half parking space shall be provided for each guestroom. The planning commission may modify the requirements of Sections 19.80.060 through 19.80.120.

#### **19.60.180 Canyon areas—Utilities.**

In the C-V zone, all utilities shall be placed underground.

#### **19.60.200 Lots of record.**

The planning commission for conditional uses and the development services director for permitted uses may waive the slope requirements of this chapter for legal lots of record and subdivisions in the C-V zone which were approved by the planning commission prior to the enactment of the ordinance from which this section derives if such waiver would not be injurious to health, safety and the general public welfare of the inhabitants of Brighton and is consistent with the purpose of this title.

### **Chapter 19.72 Foothills and Canyons Overlay Zone (FCOZ)**

[19.72.010 Purpose.](#)

[19.72.020 Applicability.](#)

[19.72.030 FCOZ Development approval procedures.](#)

[19.72.040 Underlying zoning district.](#)

[19.72.050 Cluster development.](#)

[19.72.060 Slope protection.](#)

[19.72.070 Grading standards.](#)

[19.72.080 Site access.](#)

[19.72.090 Trails.](#)

[19.72.100 Fences.](#)

[19.72.110 Tree and vegetation protection.](#)

[19.72.120 Natural hazards.](#)

[19.72.130 Stream corridor and wetlands protection.](#)

[19.72.140 Wildlife habitat protection.](#)

[19.72.150 Traffic studies.](#)

[19.72.160 Limits of disturbance.](#)

[19.72.170 FCOZ design standards.](#)

[19.72.180 Exceptions for minor ski resort improvements.](#)

[19.72.190 Waivers for mountain resort improvements that are not within a mountain resort zone, public uses and mineral extraction and processing.](#)

[19.72.200 Definitions.](#)

#### **19.72.010 Purpose.**

The general purpose of the foothills and canyons overlay zone is to promote safe, environmentally sensitive development that strikes a reasonable balance between the rights and long-term interests of property owners and those of the general public. Specifically, these standards are intended to:

- A. Preserve the visual and aesthetic qualities of the foothills, canyons, and prominent ridgelines as defined herein, contributing to the general attractiveness and, where appropriate, the commercial viability of these areas.
- B. Protect public health and safety by adopting standards designed to reduce risks associated with natural and man-made hazards.
- C. Provide efficient, environmentally sensitive, and safe vehicular and pedestrian circulation.
- D. Encourage development that conforms to the natural contours of the land and minimizes the scarring and erosion effects of cutting, filling and grading on hillsides, ridgelines, and steep slopes.
- E. Balance private and commercial needs against the risk of destabilizing fragile soils, defacing steep slopes and degrading water quality.
- F. Minimize disturbance to existing trees and vegetation, conserve wildlife habitat, protect aquifer recharge areas, and otherwise preserve environmentally sensitive natural areas by encouraging clustering, the transfer of development rights, or other design techniques to preserve the natural terrain.
- G. Reduce flooding by protecting streams, drainage channels, absorption areas, and floodplains.

- H. Protect property rights and commercial interests, and encourage economic development.
- I. Recognize the link between environmental protection and economic prosperity in the canyons.

#### **19.72.020 Applicability.**

- A. Geographic Area of Application. Maps delineating the boundaries of the foothills and canyons overlay zone are on file with the planning and development services division. Such maps, as amended, are incorporated into this chapter as if fully described and detailed herein.
- B. Development Activities Covered. The standards and regulations of the foothills and canyons overlay zone apply to all development that occurs within the mapped foothills and canyons overlay zone. Development includes all land disturbance activities such as grading, clearing, and excavation.
- C. Jurisdictional Exemptions. These provisions do not apply to properties owned by the state or the government of the United States, except as specifically authorized by state or federal statute or regulation, intergovernmental agreement, or other form of cooperative agreement.
- D. Recognition of Salt Lake City Extraterritorial Jurisdiction. Brighton recognizes that Salt Lake City has extraterritorial jurisdiction for protection of its watershed located in the canyons east of Salt Lake City from City Creek Canyon south to Little Cottonwood Canyon. All development in Brighton impacting surface water, wells, storage facilities, or aquifers located within Salt Lake City watershed areas shall be referred to Salt Lake City to confirm compliance with applicable ordinances and watershed protection standards. If confirmation is not received within the time prescribed by Brighton ordinance for processing applications, the planning commission or director may approve the application subject to confirmation being received prior to a building permit being issued. Brighton shall notify other water providers of which Brighton is aware that have protected watersheds in the canyons and may have authority over the proposed development within those areas. Notification shall include a copy of the application, any public hearing dates for the application, and contact information for Brighton planning and development services division.
- E. Mountain Resort Zone. Due to the unique and specialized uses of mountain resort properties, including recreational and mixed residential and commercial uses, mountain resorts may apply for specialized mountain resort ("MRZ") zoning. Should a resort choose not to apply for MRZ zoning, it shall be subject to all of the requirements of the underlying zone and this chapter.

#### **19.72.030 FCOZ Development approval procedures.**

- A. Purpose. The purpose of this section is to outline the site plan application and approval process required for all development or construction activity, including

tree/vegetation removal and grading, or subdivision of land, in the foothills and canyons overlay zone.

- B. Joint Applications. Where a process is already established by ordinance or agreement for review and approval of a land use application in the foothills and canyons (such as a subdivision, conditional use or permitted use site plan, development agreement, or variance process), applicable FCOZ standards shall be applied concurrently with the related application. If there is no related land use application under review, the applicant shall be subject to the following process.

- C. Application Process.

- 1. Pre-Application Meeting.

- a. Purpose. An informal pre-application meeting with the director is required prior to submitting a site development plan application. The purposes of the pre-application meeting are to provide an opportunity for the parties to discuss:
      - i. The application submittal, review and approval process.
      - ii. The proposed development of the site and its relationship to site conditions and area characteristics, including geologic, hydrologic, and environmental issues.
    - b. Scheduling of Pre-Application Meeting. To request a pre-application meeting, the applicant shall submit a pre-application meeting request on a form provided by Brighton, together with any required fees and materials. Upon submittal of a complete application, the development proposal shall be scheduled for discussion at a pre-application meeting.
    - c. Attendance. In addition to the director, other Brighton participants in the pre-application meeting may include representatives from the health department, engineer's office, fire department, Salt Lake City department of public utilities, and any other person or entity Brighton deems appropriate.

- 2. Site Development Plan.

- a. Application.
      - i. Upon conclusion of the pre-application meeting process, an applicant seeking approval of a development plan shall submit an application form, together with required maps, plans, reports, special requests, and fees, to the director. All submitted materials shall be available for public review.
      - ii. Following documentation of assurances provided at the pre-application meeting or field inspections, the director may waive or modify submittal requirements deemed unnecessary.
      - iii. The director may require additional information, as necessary, to substantiate compliance with the provisions and standards of this chapter and other applicable codes and ordinances. For example, the director may seek technical and policy recommendations from other public agencies with related legal jurisdiction such as the local health



department; state division of wildlife resources; state division of forestry, fire, and state lands; U.S. Forest Service; and U.S. Soil Conservation Service.

- b. Staff Review. The director shall review the development proposal for compliance with the standards and processes of this ordinance, including Paragraph D below, and shall document findings in a written report. The report shall specify all areas of noncompliance with regulations together with any recommended modifications or conditions of approval to mitigate detrimental impacts and bring the plan into compliance, and shall be made available to the public and provided to the applicant (unless specifically waived by the applicant) no less than three business days prior to any applicable planning commission meeting.
- D. Approval Standards. The following is a summary of site development plan review standards. Failure to document compliance with any of the following may result in denial of a site development application.
1. The development is consistent with the purposes and intent of the policies, goals, and objectives of any applicable plan, including the Wasatch Canyons general plan, the Brighton regional trails plan, and applicable community general plans, as amended.
  2. The site plan, grading, construction, and development activities comply with the mandatory requirements of the FCOZ, unless modifications or waivers have been expressly granted.
  3. The development complies with all applicable development regulations, standards, requirements, or plans adopted by the local or state authority, including but not limited to water quality and wastewater regulations.
- E. Expiration of Site Development Plan/Issuance of a Building Permit.
1. A building permit issued pursuant to the FCOZ site development plan approval process must reference all conditions or stipulations applicable to such approval. All development, construction, and use shall be in accordance with the approved site development plan.
  2. An approved site development plan shall be valid for a period of twelve months from the date of the final approval, unless authorized as a multi-phase development.
  3. A building permit may be obtained at any time within the twelve-month period. If substantial progress towards obtaining a building permit is not made within the one-year period, approval of the site development plan automatically lapses and the plan is null and void.
  4. A building permit issued for any phase of a development that has received site development plan approval may extend the life of the site development plan for the entire development for an additional twelve months from the date of issuance of the building permit. If any successive twelve-month period expires before a building permit application is filed for a subsequent phase or phases, then the

site development plan approval automatically lapses and the plan is null and void as to all undeveloped or un-built phases of the development, unless substantial progress toward obtaining a building permit is demonstrated.

5. A twelve month extension of the life of the site development plan may be obtained subject to paying an extension fee equal to the conditional use and subdivision extension fee in the township services planning review fee schedule on file with township services.
- F. Appeals. Pursuant to Section 19.92.050 of this title, any person adversely affected by a final decision of the zoning authority may appeal that decision to the land use hearing officer.

#### **19.72.040 Underlying zoning district.**

- A. Conflicts. Unless specifically exempted or modified by the underlying zone, such as a mountain resort zone, all development shall comply with the standards of this chapter.
- B. Division of Consolidated Lots. Previously platted lots consolidated into one taxable parcel may not be re-divided into lots smaller than the minimum area required in the underlying zone.
- C. Setbacks. Setbacks from property lines are established by the underlying zone. If no setbacks are stated, an applicant wishing to locate a building closer than ten feet to the property line shall demonstrate that the structure will not place additional burden on neighboring properties by addressing the following factors: snow load, drainage, access, fire protection, and building code.

#### **19.72.050 Cluster development.**

- A. General Requirements. Cluster development is the grouping of residential properties on lots smaller than allowed in the underlying zone to reduce infrastructure costs and environmental impacts and to reserve otherwise developable land for open space or recreation. Whether proposed by an applicant or required by the planning commission, cluster development may only be approved upon satisfaction of the following conditions:
  1. The clustering proposal meets all other applicable requirements set forth in the foothills and canyons overlay zone or in other applicable ordinances or regulations.
  2. The clustering proposal, compared with a more traditional site plan, better attains the policies and objectives of the foothills and canyons overlay zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, slide areas, prominent ridgelines, wetlands, and steep slopes.
  3. The clustering proposal shall have minimal adverse impact on adjacent properties or development, or, if such impacts may result, the applicant has

agreed to implement appropriate mitigation measures such as landscape, screening, illumination standards, and other design features as recommended by the director to buffer and protect adjacent properties from the proposed clustered development.

4. The architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development.

**B. Density Bonus for Cluster Development.**

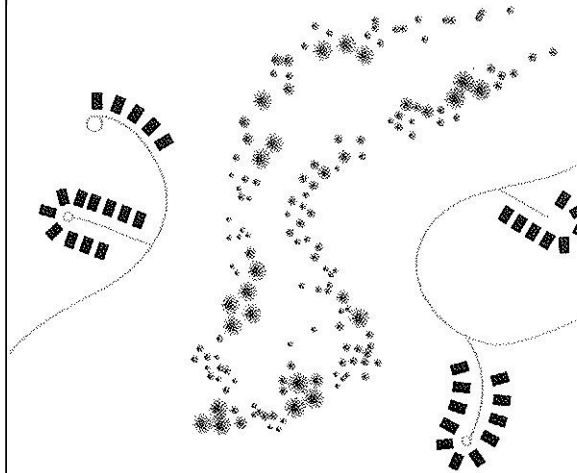
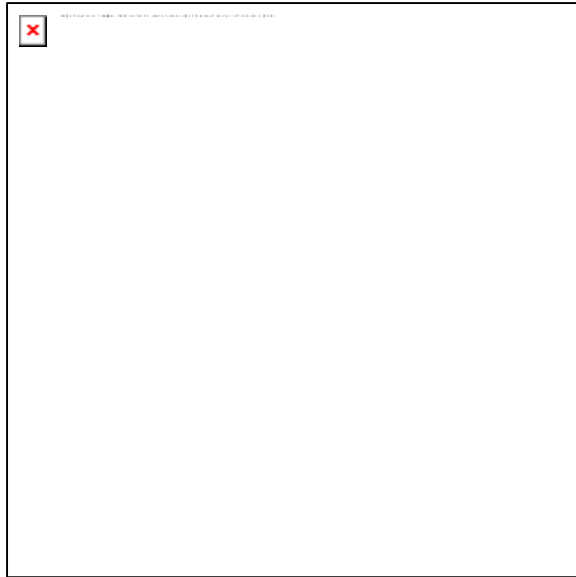
1. A cluster density bonus of up to twenty-five percent over the base density permitted in the underlying zone may be available for cluster developments that satisfy the above standards while taking into account the bonus density.
2. The allowable density bonus for a cluster development is equal to twenty-five percent of the "net developable acreage," and must be rounded to the nearest whole number, but in no case less than one.

**C. Cluster Development Design.**

1. The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall conform with any adopted Brighton open space and/or trail plans, provide contiguity with adjacent natural open space and/or conservation areas, protect unique natural, historic, or cultural site features and resources, and avoid fragmentation of conservation areas within the site
2. The maximum number of lots allowed in a single cluster is twenty lots. Each cluster shall be separated from other residential clusters by a minimum of one-hundred feet.
3. The layout of a cluster development shall protect significant natural resources on or adjacent to the site. Natural resources include riparian areas, wetlands, ecological resources, steep slopes and ridgelines, and wildlife habitat and corridors. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.
4. A cluster development shall preserve the open sky backdrop above any ridgelines and, where possible, significant views of the natural landscape as viewed from adjacent streets.

- D. Illustration of Cluster Development.** Figure 19.72.1: Cluster Development illustrates recommended cluster development.

**FIGURE 19.72.1: CLUSTER DEVELOPMENT**



(Ord. No. 1808, § I, 3-14-2017)

#### **19.72.060 Slope protection.**

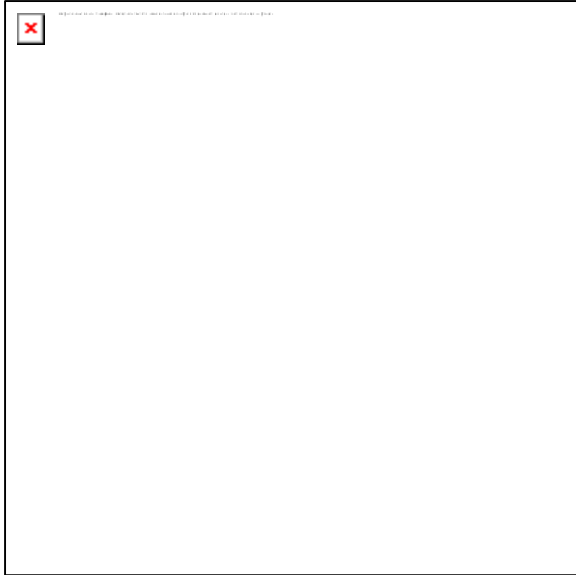
##### **A. Slope Protection Standards.**

1. Unless otherwise allowed in this Title, no development activities, including clearing, excavation, grading, and construction, are allowed on slopes greater than thirty percent.
2. Structures shall be set back from ascending or descending slopes greater than thirty percent in accordance with the requirements of the current adopted building code.

##### **B. Development on Ridgelines.**

1. Unless otherwise allowed in this title, no development may break the horizon line, defined as the point where the ridge visibly meets the sky as viewed from public rights of way or trails.
2. Unless otherwise allowed in this title, no development may be located within one-hundred feet (map distance) from either side of the crest of a protected ridgeline designated as such in an adopted Brighton master plan or incorporated by other ordinance.
3. Figure 19.72.2: Ridgeline Development illustrates recommended ridgeline development.

#### **FIGURE 19.72.2: RIDGELINE DEVELOPMENT**



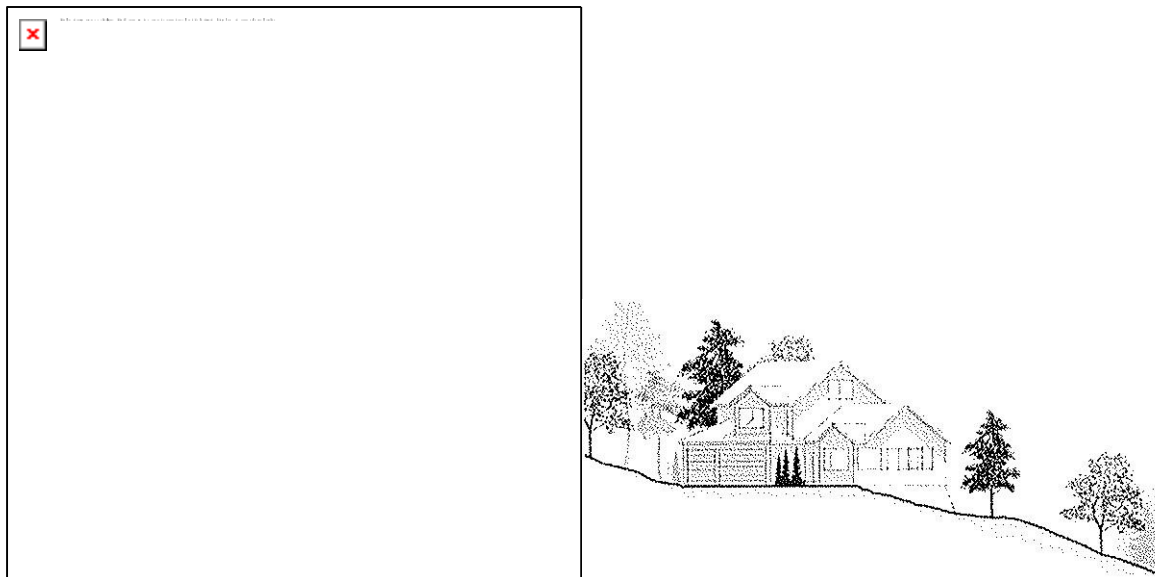
- C. Natural Open Space within Steep Slopes. Unless expressly allowed in this title, all areas with slope greater than thirty percent must remain in natural private or public open space, free of any development activities.
- D. Waiver of Slope Protection Standards for Lots of Record.
1. The planning commission may only waive or modify the following slope protection standards as applied to development on lots of record and in subdivisions that were approved prior to the effective date of this chapter:
    - a. Slope protection standards prohibiting development on slopes greater than thirty percent or in ridge line protection areas, as set forth above.
    - b. Limitations on the crossing of slopes greater than thirty percent by any street, road, private access road or other vehicular route, as addressed in Subsection 19.72.080.
  2. The planning commission may only waive these standards upon satisfaction of the following criteria:
    - a. Strict compliance with the above slope protection standards.
      - i. Renders the site undevelopable, or
      - ii. Results in substantial economic hardship not created by the applicant or otherwise self-imposed, or
      - iii. Results in a building location that requires excessive grading, vegetation removal, or driveway distances in conflict with the purposes of this chapter; and
    - b. The development substantially conforms to all other development, site design, and environmental standards of this chapter and in all other applicable ordinances and codes.

3. In granting a waiver from slope and ridge line protection standards, the planning commission may impose reasonable conditions to mitigate the impacts, if any, that the planning commission determines the proposed development has on adjacent properties and the surrounding environment.
4. Notwithstanding its discretion to grant waivers for lots of record from the slope protection standards set forth in this chapter, in no case shall the planning commission permit development other than roads on slopes greater than forty percent.
5. In the interest of protecting the public health, safety, and welfare, Brighton may pursue negotiations with a property owner to purchase their property as open space as an alternative to granting a waiver. These negotiations, as long as they are performed in good faith, shall not delay Brighton's processing of any land use application.

#### **19.72.070 Grading standards.**

- A. Prior to issuance of a building permit in accordance with a grading and excavation plan and report for the site approved by the development services engineer; no grading, excavation, or tree/vegetation removal is permitted, whether to provide for a building site, for on-site utilities or services, or for any roads or driveways.
- B. Figure 19.72.3: Cutting and Grading illustrates recommended development that minimizes cuts.

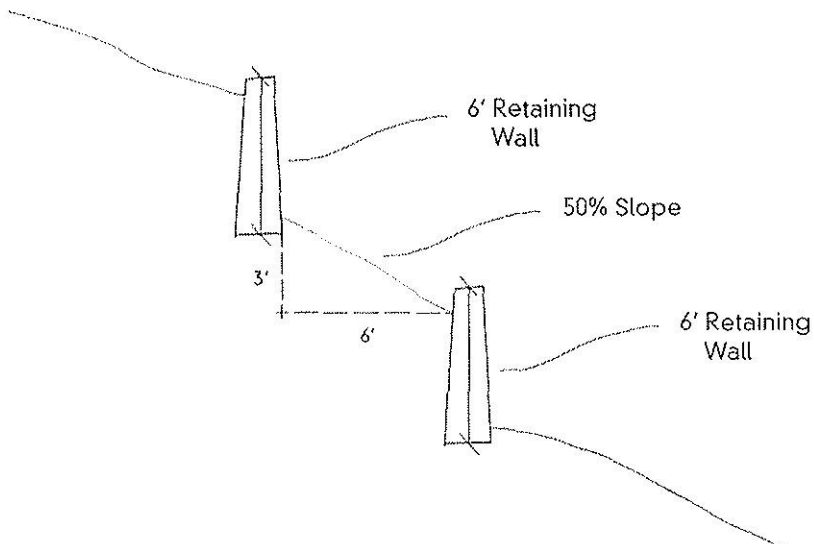
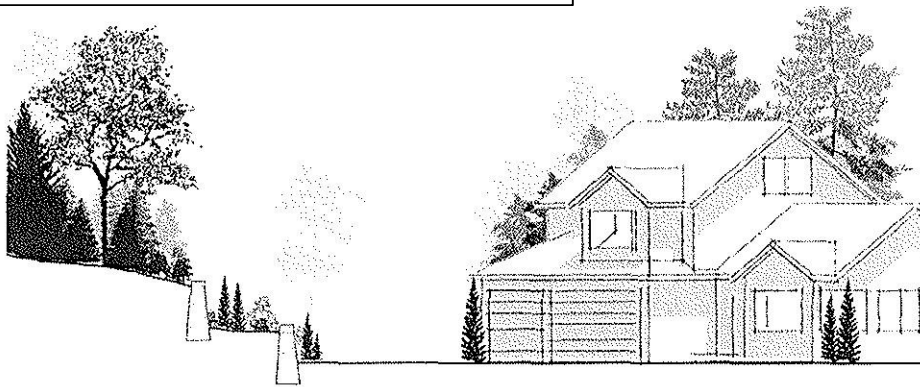
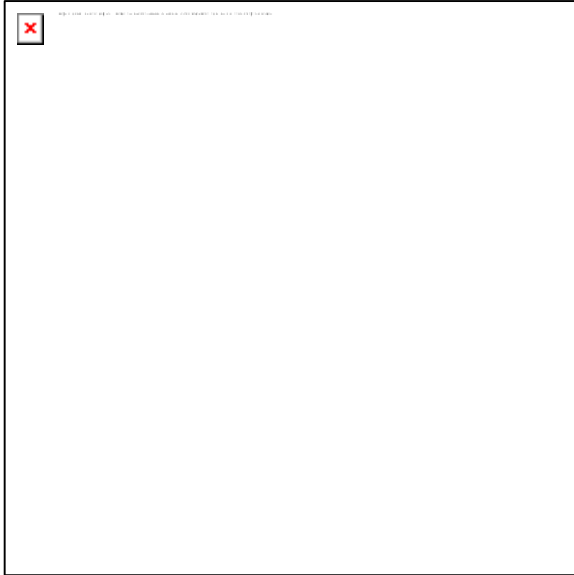
**FIGURE 19.72.3: CUTTING AND GRADING**



- C. The original, natural grade of a lot may not be raised or lowered more than four feet at any point for construction of any structure or improvement, except:

1. The site's original grade may be raised or lowered eight feet if a retaining wall is used to reduce the steepness of man-made slopes, provided that the retaining wall complies with the requirements of subsection I. below.
  2. The site's original grade may be raised or lowered more than eight feet with terracing, as specified in subsection I. below.
- D. Separate building pads for accessory buildings other than private garages, (such as barns, or recreational structures such as tennis courts, swimming pools, and similar facilities) are prohibited except where the natural slope is twenty percent or less.
- E. The following limits apply to graded or filled man-made slopes:
1. Slopes of twenty-five percent or less are encouraged wherever possible.
  2. Graded or filled man-made slopes may not exceed a slope of fifty percent.
  3. Cut man-made surfaces or slopes may not exceed a slope of fifty percent unless it is substantiated, on the basis of a site investigation and submittal of a soils engineering or geotechnical report prepared and certified by a qualified professional, that a cut at a steeper slope will be stable and will not create a hazard to public or private property.
  4. All cut, filled, and graded slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.
- F. Any slope exposed or created in new development shall be landscaped or re-vegetated pursuant to the standards and provisions of this chapter.
- G. Excavation for footings and foundations shall be minimized to lessen site disturbance and ensure compatibility with hillside and sloped terrain. Intended excavation must be supported by detailed engineering plans submitted as part of the application for site plan approval.
- H. Use of retaining walls is encouraged to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation.
1. If a single retaining wall is used, one vertical retaining wall up to eight feet in height is permitted to reduce excavation and embankment.
  2. Terracing is limited to two walls with a maximum vertical height of six feet each. The width of a terrace shall be a minimum of a one-to-one ratio with the height of the wall. Terraces are measured from the back of the lower wall to the face of the upper wall. Terraces created between retaining walls shall be permanently landscaped or re-vegetated as required by this chapter.
  3. Figure 19.72.4: Terracing and Retaining Walls illustrates recommended terracing.

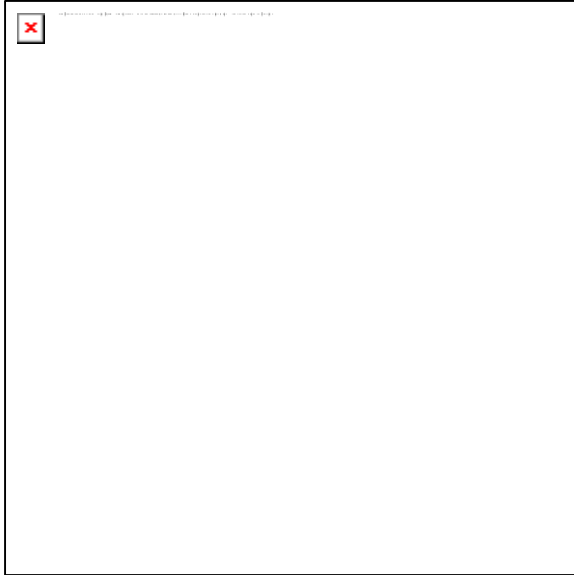
**FIGURE 19.72.4: TERRACING & RETAINING WALLS**





4. Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape, as required by the design standards of foothills and canyons overlay zone.
5. All retaining walls shall comply with the minimum standards of the International Building Code.
- I. Except for restoration and maintenance activities authorized by the state engineer and Brighton flood control division, filling or dredging of water courses, wetlands, gullies, stream beds, or stormwater runoff channels is prohibited. Bridge construction is allowed pursuant to the standards set forth of this section.
- J. Where detention basins and other storm and erosion control facilities are required, any negative visual and aesthetic impacts on the natural landscape and topography shall be minimized. See Figure 19.72.5: Recommended Detention Basin Treatment which illustrates recommended treatment.
  1. Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.
  2. Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are limited to a maximum slope of three-to-one. These slopes are created to filter, redirect or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.
  3. Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin.
  4. The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover. It is the intent to provide a natural cover that does not require regular mowing or fertilization.
  5. Appropriate erosion control measures are required on all slopes.

**FIGURE 19.72.5: RECOMMENDED DETENTION BASIN TREATMENT**

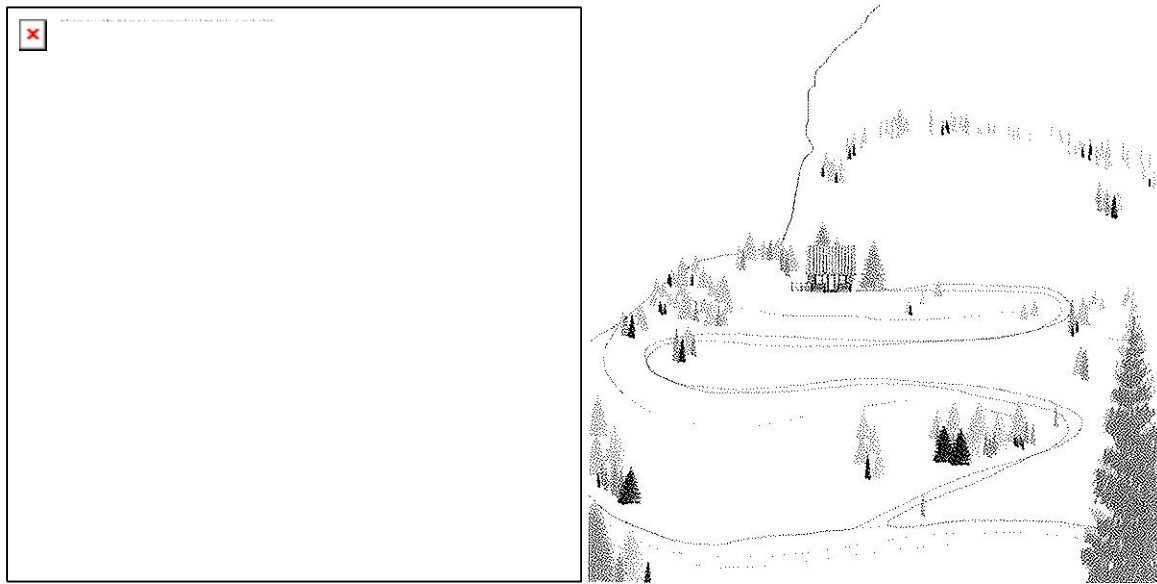


**19.72.080 Site access.**

- A. Motor vehicle access to a building or development site shall be by road (including private access road), street, alley, or driveway. Any road, street, alley, or driveway constructed after the enactment of this chapter shall comply with the applicable requirements of this section.
- B. Streets, roads, alleys, or driveways shall comply with the Brighton highway ordinance and fire authority regulations.
- C. Streets, roads, alleys, or driveways may not cross slopes averaging (in any fifty feet interval) between thirty percent and fifty percent unless specifically authorized by the Planning Commission, upon the favorable recommendation of the director and public works engineer, after finding that all of the following conditions and constraints are met:
  - 1. No alternate location for access is feasible or available.
  - 2. No individual segment or increment of the street, road, alley, or driveway in excess of one hundred feet in length may cross slopes averaging between thirty percent and fifty percent.
  - 3. The cumulative length of individual segments or increments that cross slopes averaging between thirty percent and fifty percent may not exceed ten percent of the total length of the street, road, alley, or driveway.
  - 4. All crossings shall be designed and constructed to eliminate significant adverse environmental or safety impacts.
- D. Under no circumstances shall any segment of a street, road, alley, or driveway cross slopes averaging greater than fifty percent.
- E. Streets, roads, alleys, or driveways shall follow natural contour lines where possible. If the natural contour lines do not reasonably facilitate access to the development

site, a private access road or driveway may be designed and submitted for approval with a slope not to exceed the requirements set forth in Title 14 of Brighton Code. Figure 19.72.6: Recommended Access Route Configuration illustrates the access route following natural contours.

**FIGURE 19.72.6: RECOMMENDED ACCESS ROUTE CONFIGURATION**



- F. Grading for streets, roads, alleys, or driveways is limited to the paved portion of the right-of-way, plus up to an additional ten feet on either side of the pavement as approved. However, when developing access on slopes in excess of twenty-five percent, only the paved portion of the right-of-way used for vehicular travel, plus the minimum area required for any additional improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access right-of-way must be left undisturbed.
- G. Streets or roads may be required to provide access or maintain existing access to adjacent lands for vehicles, pedestrians, emergency services, and essential service and maintenance equipment.
- H. Private access roads and driveways shall ensure safe, convenient and adequate access to individual buildings. Driveway access to a development must be consistent with Brighton general plans. In addition, provision of private access road and driveway access is subject to the following requirements:
  - 1. All private access roads and driveways shall comply with the Brighton highway ordinances and fire authority regulations.
  - 2. Private access roads and driveways greater than one hundred fifty feet in length shall meet the following requirements:
    - a. Provide a turnaround that meets Brighton's road/street and fire authority standards.

- b. Provide an adequate number of spaced turn-outs along the length of the private access road or driveway, as determined by the public works engineer in consultation with the fire authority.
- 3. If variation from the above standards is sought, the applicant shall apply for a written Code Modification Approval from the fire authority that specifies any additional requirements that must be completed prior to construction.
- 4. Shared private roads and driveways are encouraged between adjacent lots.
- 5. Private access roads and driveways to a building site shall have direct access to a public street or to a private right-of-way previously approved by the planning commission.
- 6. Finished grades shall comply with the following:
  - a. Finished private access roads and driveways are limited to a maximum grade of twelve percent, or as determined by the public works engineer on a case-by-case basis based on health and safety concerns and the need for adequate access for Brighton service providers. In no case, however, may the public works engineer approve a maximum grade greater than fifteen percent.
  - b. Private access road and driveway grades within twenty feet of the roadway are limited to ten percent slope.
- 7. The director has discretion to administratively offer relief of the driveway access standards by a maximum of twenty-five percent where applicable upon satisfaction of the following criteria:
  - a. The modification is designed to yield:
    - i. More effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site;
    - ii. Less visual impact on the property or on the surrounding area; or
    - iii. Better protection of wildlife habitat; or,
  - b. Strict application of the standard(s) would render a site undevelopable.

#### **19.72.090 Trails.**

- A. All proposed development in the foothills and canyons overlay zone shall be platted consistent with Brighton general plans regarding trails, including those portions of the adopted Brighton parks and recreation master plan that address trails and trail access locations. A dedication of private land may be required for public trails if the required dedication complies with the exaction requirements set forth in Utah Code Section 10-9a-508(1).
- B. All land offered for dedication for trails or public access to trails must be verified on the ground by the director before approval of the site plan. Brighton has the option of rejecting the applicant's offered land dedication if the proposed dedication does not comply with the exaction requirements set forth in Utah Code Section 10-9a-508(1),

or the requirements set forth in subsection (C) below; Brighton may suggest more suitable land for the applicant's consideration that does comply with each of these requirements.

- C. Land offered for dedication for trails must be located so that:
  - 1. Proposed trail construction and maintenance is feasible.
  - 2. Side slopes do not exceed seventy percent.
  - 3. Rock cliffs and other insurmountable physical obstructions are avoided.
- D. At Brighton's sole option, dedications for trails or public access may be of a fee or less-than-fee interest to either Brighton, another unit of government, or non-profit land conservation organization approved by Brighton.
- E. Brighton may allow a density bonus up to twenty-five percent of the maximum allowable density attributable to areas of the site with greater than thirty percent slope to be transferred to the developable areas of the site where the applicant demonstrates that the offered dedication is beyond what would be roughly proportional to the demand for such trails or trail access generated by the proposed development. Brighton may reduce the applicable minimum lot area requirement within the site's developable area if necessary to accommodate the transferred density.

#### **19.72.100 Fences.**

- A. No fence may be constructed or installed unless shown on an approved site plan.
- B. No fence in excess of forty-two inches in height may be constructed or installed outside the designated limits of disturbance on a site, unless required by Brighton, such as fenced corrals for horses or other animals. Fences are subject to the intersecting streets and clear visibility restrictions of this title.
- C. Fences in front yards and along roadways may not exceed forty-two inches in height.
- D. Fences in identified wildlife corridors are strongly discouraged, but in no case may exceed forty-two inches in height.
- E. Fences shall conform to the design standards of this section.

#### **19.72.110 Tree and vegetation protection.**

- A. Purpose. Protection of existing tree and vegetation cover is intended to:
  - 1. Preserve the visual and aesthetic qualities of Brighton's foothills and canyons.
  - 2. Encourage site design techniques that preserve the natural environment and enhance the developed environment.
  - 3. Control erosion, slippage, and sediment run-off into streams and waterways.
  - 4. Increase slope stability.
  - 5. Protect wildlife habitat and migration corridors.

6. Conserve energy, in proximity to structures, by reducing building heating and cooling costs.
- B. Applicability. These provisions apply to all development in the foothills and canyons overlay zone, with the following exceptions:
1. The removal of dead or naturally fallen trees or vegetation to protect public health, safety, and welfare.
  2. The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.
  3. The removal of trees or vegetation on land zoned or lawfully used for agricultural and forestry activities, including tree farms, or pursuant to approved forest management programs. In the event a site is substantially cleared of trees pursuant to such legitimate activities, no development or site plan applications for other types of development may be accepted by Brighton within thirty-six months from the date of the clearing.
  4. The director has discretion to administratively offer relief of the standards in this section by up to twenty-five percent if either of the following circumstances applies:
    - a. The modification is designed to yield:
      - i. More effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site;
      - ii. Less visual impact on the property or on the surrounding area; or
      - iii. Better protection of wildlife habitat; or,
    - b. Strict application of the standard(s) would render a site undevelopable.
- C. Tree/Vegetation Removal.
1. Outside the Limits of Disturbance. No trees or vegetation may be removed outside the approved limits of disturbance unless specifically exempted by this section.
  2. Within the Limits of Disturbance. Significant trees removed from within the limits of disturbance shall be replaced as set forth in this section.
  3. Wildfire Hazards and Tree/Vegetation Removal. Defensible space is defined as the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure. Appropriate defensible space surrounding a structure is established in Utah Wildland-Urban Interface Code incorporated in UFA Wildland-Urban Interface Site Plan/Development Review Guide. A copy of the approved fire protection plan shall be submitted to the zoning administrator for incorporation into the final approval documents.

4. Tree/Vegetation Removal for Views Prohibited. No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site.

D. Replacement of Significant Trees.

1. When a significant tree is removed from inside the established limits of disturbance, which removal is not required by wildland-urban interface standards referenced in C.3. above, the applicant or developer shall replace such tree(s) on the lot, according to the following schedule and requirements:
  - a. A significant tree that is removed shall be replaced by two trees with a minimum size of one inch caliper for deciduous trees and a minimum height of four feet for coniferous trees in locations on the lot that are appropriate, feasible, and practical, and that comply with fire requirements and standards, as determined by the zoning administrator.
  - b. Replacement trees shall be maintained through an establishment period of at least two years. The applicant shall post a bond in the amount of ten percent of the value of all replacement trees guaranteeing their health and survival during the first year of the establishment period.
2. If the remainder of the lot outside the permitted limits of disturbance is heavily wooded, defined as areas of trees with canopies that cover eighty percent of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the zoning administrator.
3. Planting replacement trees may be allowed by the zoning administrator on parcels within the subdivision or adjoining open space or forest service land upon the written consent of the property owner or representative of the property owner of the parcel(s) where the trees are being planted. In order to minimize disturbance of public land, saplings may be used in lieu of the larger trees listed in subsection 1.(a) above at the rate of ten saplings per required replacement tree, for trees planted on publicly owned land.

E. Revegetation and Land Reclamation Plan.

1. On a parcel of land that has been or will be altered from its natural condition by man-made activities, a revegetation and land reclamation plan prepared and certified by a qualified professional may be required for review and approval by the director. The plan shall incorporate the elements of the fire protection plan, and shall indicate a timeframe for revegetation that is acceptable to Brighton and that takes into account optimal seasonal growing conditions.
2. The revegetation and land reclamation plan shall depict the type, size, number, and location of any vegetation and trees to be planted and illustrate how the site will be recontoured with sufficient topsoil to ensure that vegetation is successful. All new trees shown on the plan shall:
  - a. Comply with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code;
  - b. Be spaced no closer than twenty feet on center; and,

- c. Be on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code.
  - 3. Any slope exposed or created in new development shall be landscaped or revegetated with native or adapted trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.
  - 4. On man-made slopes of twenty-five percent or greater, plant materials with deep rooting characteristics shall be selected to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.
  - 5. Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.
  - 6. The land reclamation plan may not include landscaping or other elements that conflict with the approved fire protection plan.
- F. Tree/Vegetation Protection During Construction and Grading Activities.
- 1. Limits of disturbance, as established in Section 19.72.160, shall be shown on the final plans for development and shall be clearly delineated on site with fencing or other separation methods approved by the director prior to the commencement of excavation, grading, or construction activities on the site.
  - 2. Within the limits of disturbance, fencing, at a minimum, shall be placed around each significant tree that will not be removed and around stands of twelve or more smaller trees. Such fencing shall be placed at the edge of the individual or outermost tree's drip zone. No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone, and the fencing must remain in place until all land alteration, construction, and development activities are completed.
  - 3. If it is necessary to fill over the root zone, compacted soils shall be avoided by sandwiching fabric, rocks, and more fabric under the area to be filled.
  - 4. If fill creates a tree well or depression around a tree or shrubs, such area shall be filled in or drained so that the vegetation is not drowned by the pooling of rainfall or irrigation.
  - 5. If a significant tree that will not be removed has roots that are cut, the branches shall be trimmed by an amount equal to the percent of roots that were lost. Cutting more than thirty percent is prohibited. Roots shall be pruned cleanly prior to digging and not ripped off by heavy equipment. If the tree whose roots have been cut dies within a two year period, the replacement provision in section D above applies.
  - 6. Utility trenches near trees shall be avoided. If a line must be near a tree, tunneling, auguring, or other mitigation measures shall be used.
- G. Tree Removal not Authorized by this Section.



1. If a significant tree(s) is removed contrary to any provision in this section, the person(s) responsible for the removal shall pay to Brighton the value of the tree(s).
  - a. The value of the tree(s) shall be determined by a tree appraiser who is an ISA (International Society of Arboriculture) certified arborist with at least five years of experience appraising trees using the appraisal methods outlined in the current edition of "The Guide for Plant Appraisal," authored by the Council of Tree and Landscape Appraisers (CTLA). The appraiser shall prepare an appraisal report using these methods, and adding to the value from these methods an analysis of the tree(s) contributory value, i.e., the value that the tree(s) contributed to the overall value of the property on which they were located.
  - b. The appraiser shall be chosen by the person(s) responsible for the removal and Brighton.
  - c. The person(s) responsible for the removal shall pay the cost of the appraisal.
2. If a significant tree(s) is removed contrary to this section, all development and Brighton permitting and processing of the land use application shall be put on hold for up to sixty days from the date of Brighton's discovery of removal. During that time, Brighton will inventory the significant tree(s) that were removed, and the process of valuing the tree(s) that were removed shall commence, pursuant to paragraph 1 above.
3. The person(s) responsible for removing the significant tree(s) shall pay for the cost of site restoration, including the removal of the stump(s). The stump(s) may not be removed until an appraisal is completed pursuant to paragraph 1. above.
4. The person(s) responsible for removing the significant tree(s) shall also replace the tree(s) in accordance with the provisions in this section. The bond referenced in subsection (D)(1)(b) of this section shall be a surety bond for those that unlawfully remove trees.

In addition to the civil penalties provided in paragraphs 1—4 of this subsection (G), the person(s) responsible for removing the significant tree(s) may also be subject to criminal prosecution as a Class B misdemeanor for each significant tree unlawfully removed.

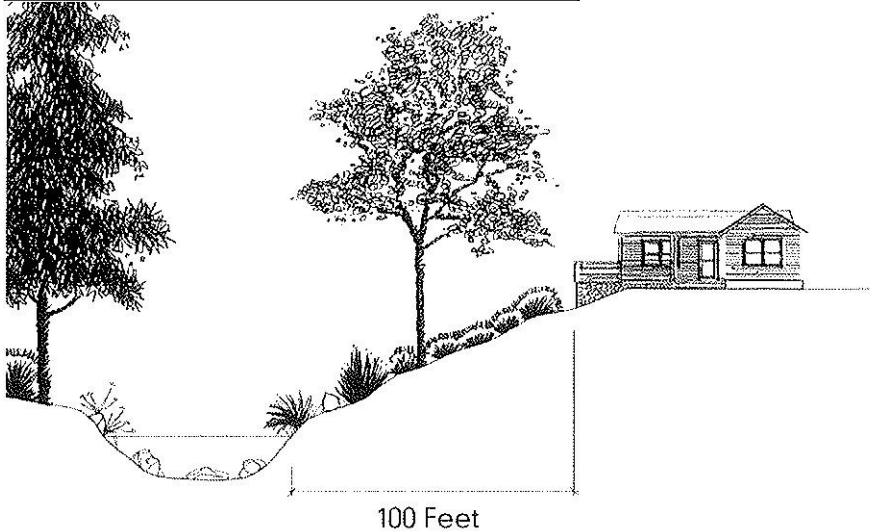
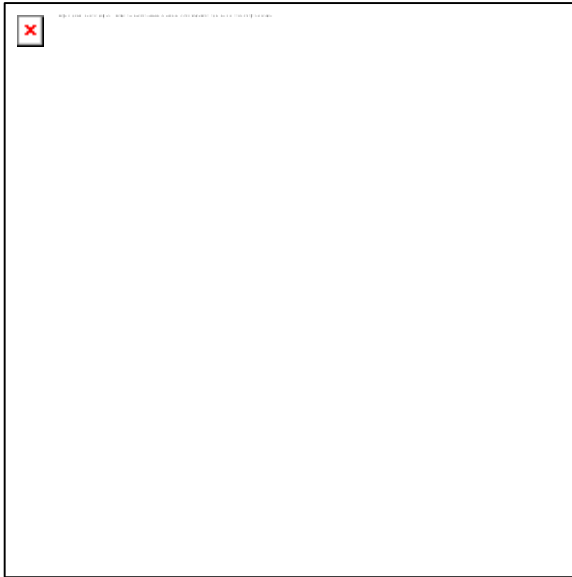
#### **19.72.120 Natural hazards.**

A natural hazards report, together with geotechnical, slope, soils, and grading reports, may be required as provided in 19.75,030 "Geological Hazards" and Chapter 19.74 "Floodplain Hazards." Brighton shall review all natural hazards reports and recommendations in the report and may require, consistent with the above ordinances, that preliminary conditions be satisfied prior to final approval of the site plan.

### **19.72.130 Stream corridor and wetlands protection.**

- A. Purpose. The following requirements and standards are intended to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions of stream corridors, associated riparian areas, and wetlands.
- B. Applicability. Unless previously delineated by Brighton, boundaries for stream corridors and wetland areas are delineated according to the following standards:
  - 1. Stream corridor and wetland area delineation shall be performed by a qualified engineer or other qualified professional with demonstrated experience and expertise to conduct the required site analysis. Delineations are subject to the approval of the director.
  - 2. Stream corridors shall be delineated at the ordinary high-water mark. Stream corridors do not include irrigation ditches that do not contribute to the preservation and enhancement of fisheries or wildlife.
  - 3. Boundary delineation of wetlands are established using the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands jointly published by the U.S. Environmental Protection Agency, the Fish and Wildlife Service, the Army Corps of Engineers, and the Soil Conservation Service.
- C. Prohibited Activities. No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed in this title as approved by Brighton flood control, the state engineer's office, and other applicable authorities.
- D. Setbacks.
  - 1. Perennial Stream Corridors. All buildings, accessory structures, parking lots, and all on-site wastewater disposal systems shall be set back at least one-hundred feet horizontally from the ordinary high-water mark of perennial stream corridors. (See Figure 19.72.7: Setback from Stream Corridor)

**FIGURE 19.72.7: SETBACK FROM STREAM CORRIDOR**



2. Wetlands. All buildings, accessory structures, and parking lots shall be set back at least fifty feet, and all on-site wastewater disposal systems shall be set back at least one hundred feet horizontally from the delineated edge of a wetland.
3. Ephemeral Streams. Leach fields shall be set back one hundred feet from the channel of an ephemeral stream. All buildings, accessory structures, and parking areas or parking lots shall be set back at least fifty feet from the channel of an ephemeral stream. The zoning administrator may recommend to the land use authority modifications to this prohibition upon finding that the modification is likely to cause minimal adverse environmental impact or that such impact may be substantially mitigated. For properties located within the Salt Lake City watershed, the zoning administrator shall consult with Salt Lake City public utilities prior to making a recommendation.
4. Natural Open Space/Landscape Credit for Setback Areas. All setback areas are credited toward any relevant private natural open space or landscape requirements, but are not credited toward trail access dedication requirements.

- E. Preservation of Vegetation. All existing vegetation within the stream corridor or wetland setback area shall be preserved to provide adequate screening or to repair damaged riparian areas, supplemented where necessary with additional native or adapted planting and landscaping.
- F. Bridges. Any bridge over a stream corridor and within the stream setback area may be approved provided the director affirms that the bridge is planned and constructed in such a manner as to minimize impacts on the stream corridor.
- G. Modification of Setbacks.
  - 1. The director has discretion to administratively reduce the perennial stream corridor and wetlands setbacks by a maximum of twenty-five percent where applicable upon satisfaction of the following criteria:
    - a. The modification is designed to yield:
      - i. More effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site;
      - ii. Less visual impact on the property or on the surrounding area; or
      - iii. Better protection of wildlife habitat; or,
    - b. Strict application of the standard(s) would render a site undevelopable.
- H. Perennial Stream Corridor and Wetland Setback Requirements for Lots of Record.
  - 1. Existing Legally-Established Structures. A structure legally existing on the effective date of this chapter that is within fifty feet of a perennial stream corridor or wetland may be renovated, altered, or expanded or reconstructed if damaged or destroyed by fire, flood, or act of nature as follows:
    - a. Renovations or alterations or reconstruction of a damaged or destroyed structure that will not increase the gross floor area of the original, existing structure are permitted.
    - b. Renovations, alterations, or expansions that will increase the gross floor area of the original, existing structure are limited to a cumulative total expansion of no more than two hundred fifty square feet of gross floor area located closer than fifty feet to a perennial stream corridor or wetland.
    - c. Renovations, alterations, expansions, or reconstruction of a damaged or destroyed structure that increase the gross floor area of the original, existing structure but which are no closer than fifty feet to a perennial stream corridor or wetland are permitted, subject to compliance with all other applicable regulations and standards.
  - 2. New Structures. For new developments, the director may authorize construction to no closer than fifty feet from a perennial stream corridor or to no closer than twenty-five feet from a wetland subject to the following criteria:
    - a. Denial of an encroachment of more than the twenty-five percent into the stream or wetlands setback area allowed by Section 19.72.130(G) would render the site undevelopable.

- b. No alternative location for the development further away from the stream or wetland is feasible or available.
  - c. Creative architectural or environmental solutions have been incorporated into the development proposal in order to ensure that the purposes of stream corridor protection, as set forth in Subsection 19.72.130 are achieved.
  - d. No federal or state laws, or other Brighton ordinances or regulations are violated.
3. Limitation. In allowing for the preceding improvements, the director may not:
- a. Increase the maximum limits of disturbance set forth in Subsection 19.72.160.
  - b. Authorize the encroachment of more than five-hundred square feet of gross floor area of structural improvements (cumulative total) within the land area between seventy-five feet and fifty feet from perennial stream corridor or within the land area between fifty and twenty-five feet of a wetland.
4. In the interest of protecting the public health, safety, and welfare, Brighton may pursue negotiations with a property owner to purchase their property as open space as an alternative to granting a waiver. These negotiations, as long as they are performed in good faith, shall not delay Brighton's processing of any land use application.

#### **19.72.140 Wildlife habitat protection.**

- A. Purpose. Brighton finds that its foothills and canyon areas provide important wildlife habitat for a wide variety of animal and bird species. In combination with the tree/vegetation and stream corridor/wetlands protection standards, the following requirements have been developed to promote and preserve valuable wildlife habitats and to protect them from adverse effects and potentially irreversible impacts.
- B. Development Limitations in Areas of Critical Habitat. All development subject to these provisions shall incorporate the following principles in establishing the limits of disturbance and siting buildings, structures, roads, trails, and other similar facilities:
- 1. Facilitate wildlife movement across areas dominated by human activities by:
    - a. Maintaining connections between adjacent natural open space parcels and areas, and between natural open space parcels and areas in close proximity.
    - b. Prohibiting fencing types that inhibit the movement of wildlife species.
  - 2. Mimic features of the local natural landscape by:
    - a. Minimizing disturbance to trees, the understory, and other structural landscape features during construction.
    - b. Providing selective plantings on the property that enhance the habitat value for the endemic wildlife population.

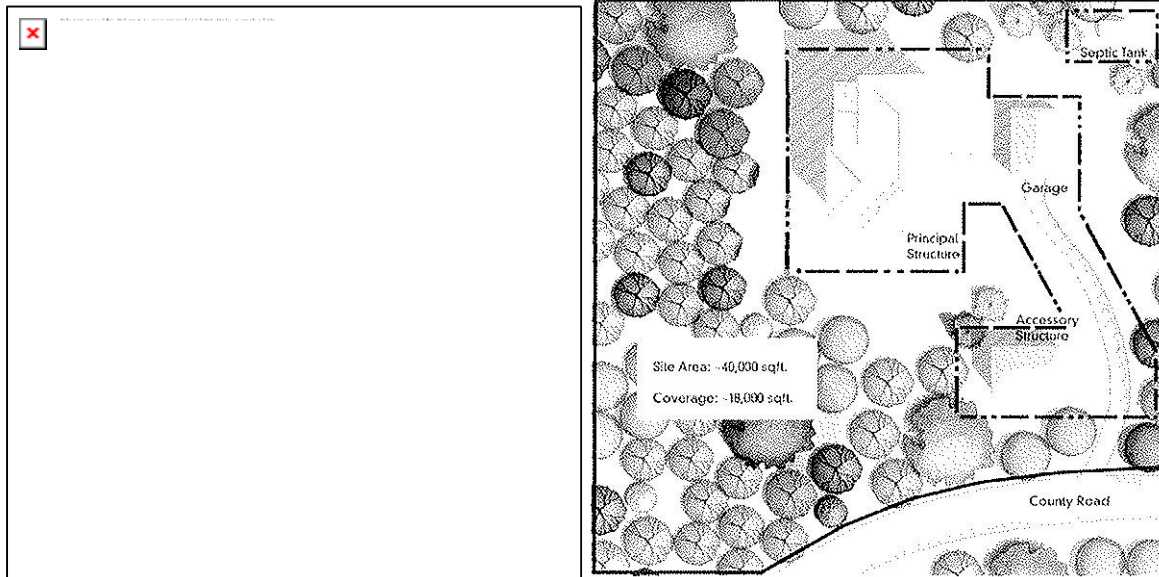
#### **19.72.150 Traffic studies.**

- A. **Traffic and Parking Impact Study Required.** A traffic and parking impact study is required as part of the site plan application for the following developments in the foothills and canyons overlay zone:
1. All residential development that creates a projected increase in traffic volumes equal to or greater than ten percent of current road/street capacity as determined by the public works engineer.
  2. All non-residential development that creates a projected increase in traffic volumes equal to or greater than fifty trip-ends per peak hour.
  3. All development that affects a roadway identified by Brighton transportation engineering manager as having an unacceptable level of service (LOS) based on AASHTO guidelines and the Highway Capacity Manual.
- B. **Required Submittals.** A traffic and parking impact study must address, at a minimum, the items specified in the "Submittal Requirements for Development Proposals in the Foothills and Canyons Overlay Zone," which is incorporated by reference.
- C. **Review and Improvements.** All development subject to this section must demonstrate that the peak hour levels of service on adjacent roadways and at impacted intersections after development will comply with current Brighton transportation and impact mitigation policies and recommendations.
- D. **Circulation and Access Plan.** All development required by this subsection to submit a traffic and parking impact study is also required to provide a circulation and access plan to ensure free-flowing access to the site and avoid congestion and unsafe conditions on adjacent public roads and streets. The circulation and access plan may be combined with the required traffic and parking impact study.

#### **19.72.160 Limits of disturbance.**

- A. **Scope and General Requirements.** "Limits of disturbance" must be established on the site plan, indicating the specific area(s) of a site where construction and development activity must be contained. (See Figure 19.72.8).

#### **FIGURE 19.72.8: ILLUSTRATION OF LIMITS OF DISTURBANCE**



B. Purpose for Limits of Disturbance. Limits of disturbance are established for the following purposes:

1. Minimizing visual impacts from the development including, but not limited to: screening from adjacent and downhill properties, ridgeline area protection, and protection of scenic views.
2. Erosion prevention and control including, but not limited to, protection of steep slopes and natural drainage channels.
3. Fire prevention and safety including, but not limited to, location of trees and vegetation near structures.
4. Preservation of tree cover, vegetation, and the site's natural topography.
5. Conservation of water including, but not limited to, preservation of existing native vegetation, reduction in amounts of irrigated areas, and similar considerations.
6. Wildlife habitat protection including, but not limited to, preservation of critical wildlife habitat and migration corridors and routes.
7. Stream corridor and wetland protection and buffering.

C. Limits of Disturbance May Be Noncontiguous. Limits of disturbance necessary to accommodate proposed development may be noncontiguous in order to best achieve the above purposes.

D. Maximum Limits of Disturbance.

1. For single family residential uses on lots or parcels less than one acre in size, the limits of disturbance are limited to twenty thousand square feet.
2. For single family residential uses on lots or parcels one acre in size or greater, the limits of disturbance are limited to twenty thousand square feet plus an additional square footage of twenty percent of the acreage over one acre.

3. For all other uses, the maximum limits of disturbance shall be determined by the director on a case by case basis in harmony with the purposes of FCOZ stated in 19.72.010 to accomplish the purposes set forth in subsection B of this section.

E. Modification of Limits of Disturbance.

1. The director has discretion to administratively increase the limits of disturbance by a maximum of twenty-five percent where applicable upon satisfaction of the criteria set forth below:
  - a. The modification is designed to yield:
    - i. More effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site;
    - ii. Less visual impact on the property or on the surrounding area; or
    - iii. Better protection of wildlife habitat; or,
  - b. Strict application of the standard(s) would render a site undevelopable.

**19.72.170 FCOZ design standards.**

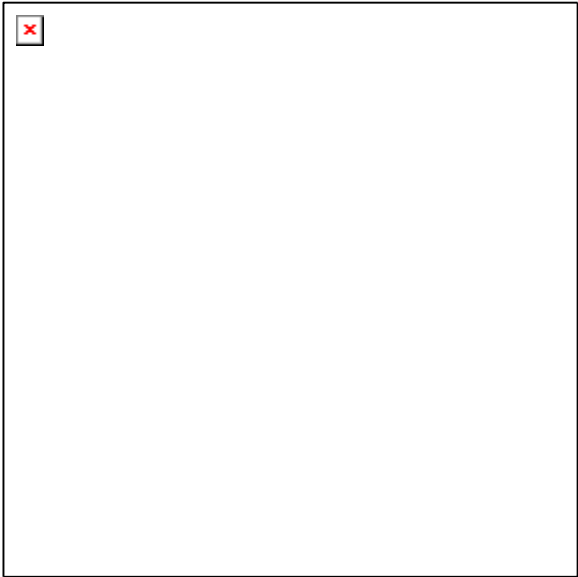
- A. Purpose. As stated in 19.72.010, the general purpose of design standards is to promote development that balances the rights of the landowner with protection of the foothill and canyon environment. These standards are intentionally broad to allow flexibility in design, compatibility with varying features of the natural landscape, and consistency with the following purposes:
1. Preserve and enhance the beauty of the landscape by encouraging the retention of natural topographic features, such as drainage swales, streams, slopes, ridge lines, rock outcroppings, vistas, natural plant formations, trees, and similar features.
  2. Encourage planning and design of development and building sites that balances safety, recreational opportunity, economic development, and enjoyment of property rights, while adapting development to, and preserving natural terrain.
  3. Establish a foundation for development in sensitive lands to insure a more harmonious relationship between man-made structures and the natural setting.
  4. Direct new development in the canyons and foothills toward areas meeting suitability criteria, as outlined in the Wasatch Canyons general plan and other applicable general or community plans.
- B. Advisory or Mandatory Design Standards. The development and design standards set forth in this chapter fall into two categories: "advisory" standards and "mandatory" standards. Design standards that are advisory encourage voluntary adaptation. Development within the foothills and canyons overlay zone is to comply with all of the mandatory standards unless alternative design is approved by the planning commission upon a finding that the alternative design is in harmony with the purposes of FCOZ as stated in Section 19.72.010. The design standards and categories are summarized below in Table 19.72.1: FCOZ Design Standards.



BRIGHTON, UTAH  
TABLE 19.72.1: FCOZ DESIGN STANDARDS

DESIGN STANDARDS		
Mandatory	Advisory	A. Select an appropriate site
X		A site must be suitable for the type of building or use being planned without major alterations to the site.
X		Buildings or uses shall comply with this chapter and all applicable state and federal laws, recognizing the natural or man-made restraints on particular sites such as slope, soil instability, landslides, avalanche, or flooding. (See, for example, Section 19.72.120 (Natural Hazards) and Chapter 19.74 (Floodplain Hazard Regulations).)
Mandatory	Advisory	B. Site buildings in a manner that preserves existing land forms See Figure 19.72.9
	X	Each building should be located so that it does not dominate the landscape. The best way to decrease visual impacts is to locate the project as far away from prominent viewing locations as possible.
X		Visually prominent areas of the site shall be left in their natural condition with the exception of areas necessary for access. Structures shall be screened using existing land forms and vegetation. (See Subsection 19.72.110 (Tree and Vegetation Protection).)
	X	Where practical, buildings should be placed in the following locations on a site: <ol style="list-style-type: none"> <li>1. Within tree masses to screen buildings</li> <li>2. At the edge of trees or land masses overlooking natural open space</li> <li>3. In open areas where they are not visible from roads, trails, or other public lands.</li> </ol>

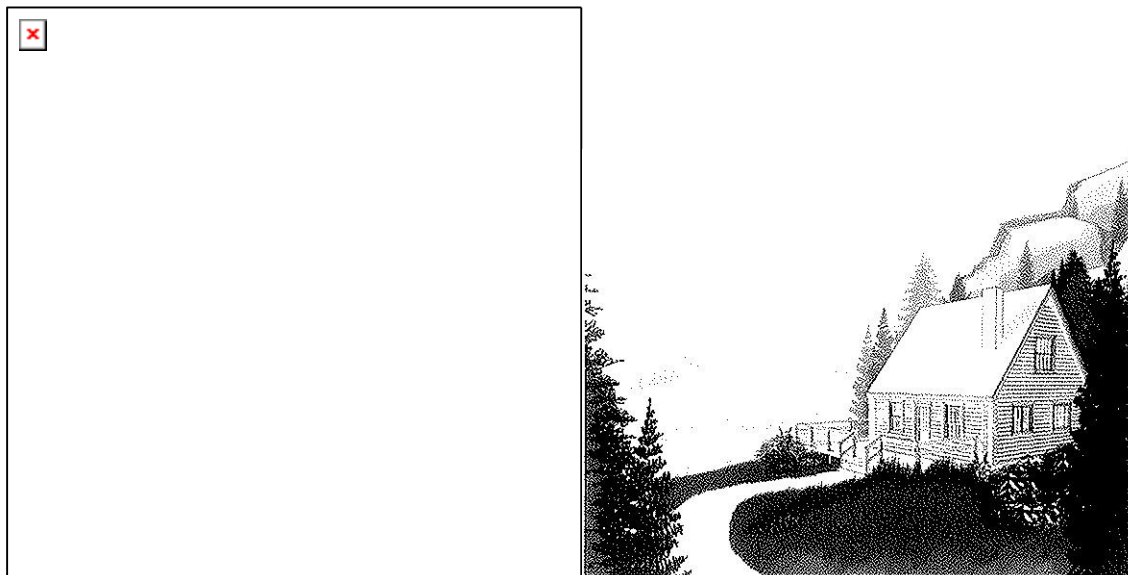
FIGURE 19.72.9: PRESERVE EXISTING LAND FORMS



Mandatory	Advisory	C. Site buildings so they do not protrude into significant viewsapes. See Figure 19.72.10
	X	Buildings should be designed to fit their sites and to leave natural massing and features of the landscape intact. Each building should be designed as an integral part of the site rather than an isolated object at odds with its surroundings.
	X	Where feasible, views should be maintained both to the site and to features beyond, as seen from public rights-of-way, trails, and other public lands. Projects should not be located on

		prominent topographic features where they dominate views or unnecessarily obscure the views of others.
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**FIGURE 19.72.10: PRESERVE SIGNIFICANT VIEWS**



<b>Mandatory</b>	<b>Advisory</b>	<b>D. Site buildings so their form does not break prominent skylines See Figure 19.72.11</b>
X		Buildings shall be sited at less visible places and designed so they are not obtrusive, do not loom over the hillside, and do not break prominent skylines from key vantage points. Skylines are ridges or hilltops on the horizon line that do not have backdrops behind them as viewed from key vantage points. Heavily traveled public roads located below skylines or hilltops are key vantage points.

**FIGURE 19.72.11: RIDGELINE DEVELOPMENT**



Mandatory	Advisory	<b>E. Site buildings to preserve significant trees and vegetation. See Figure 19.72.12</b>
X		Buildings shall be sited to keep removal of significant trees and vegetation to a minimum. (See section 19.72.160 (Limits of disturbance), 19.72.110 (Tree and vegetation protection.)

**FIGURE 19.72.12: PRESERVE SIGNIFICANT VEGETATION**

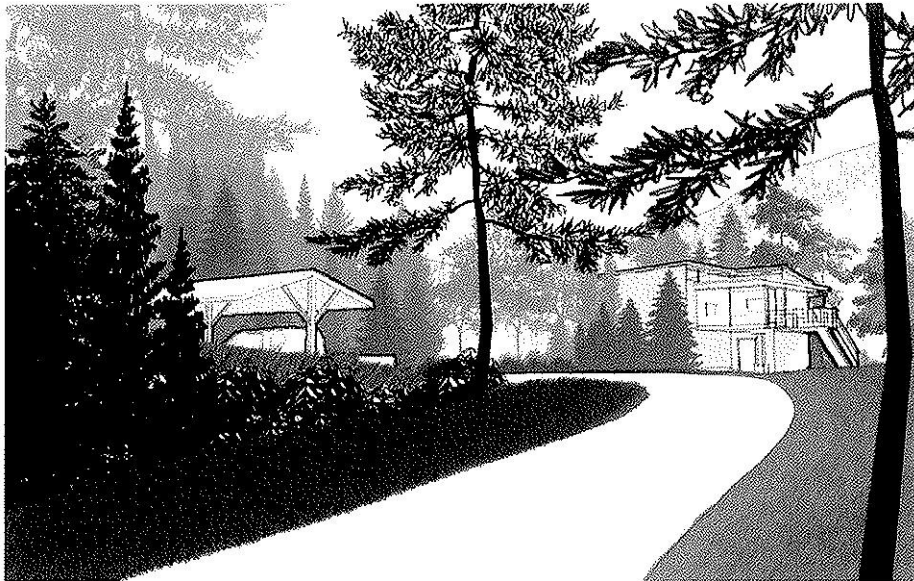


Mandatory	Advisory	<b>F. Cluster buildings and parking, and coordinate neighboring developments. See Figure 19.72.1</b>
	X	Clustering is encouraged to reduce land disturbance and the cost of providing services, road and parking area maintenance, snow removal, etc. (See Section 19.72.080 (Site Access).)
	X	Cooperative, coordinated development and the sharing of services, infrastructure, facilities, and parking among adjoining landowners is encouraged.

<b>Mandatory</b>	<b>Advisory</b>	<b>G. Locate parking facilities to minimize their visual impact. See Figure 19.72.13</b>
X		When visible from publicly used roads, parking facilities shall be screened to blend into the natural environment. Parking lot design that requires backing onto a public street is prohibited. (See Section 19.72.080 (Site Access))
X		Parking facilities should be located to the rear or side of main buildings if possible when a site has a lot width of one hundred feet or more.
X		Parking facilities shall be designed consistent with the existing topography.
X		Parking facilities shall provide adequate snow storage areas.



**FIGURE 19.72.13: PARKING LOCATION**

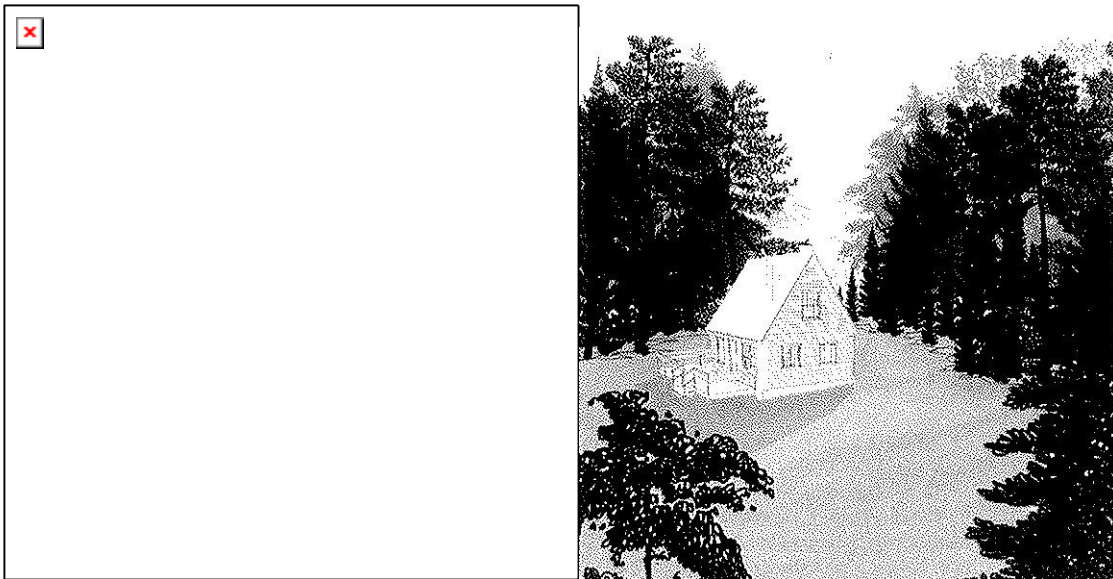


Mandatory	Advisory	H. Place utility lines underground
X		When possible, utilities shall be placed underground and within existing roadways or in established shoulders to minimize the impact to existing natural features, such as natural vegetative patterns and land forms.
X		Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated. (See Section 19.72.110 (Tree and Vegetation Protection).)



<b>Mandatory</b>	<b>Advisory</b>	<b>I. Design buildings to solidly meet the ground plane. See Figure 19.72.14</b>
X		Building designs that require a strong structural statement, such as extensive cantilevers or cuts and fills, are prohibited on sensitive hillsides with slopes greater than thirty percent, wetlands, streams, or hillsides with soil instability consistent with this chapter.
X		Buildings shall firmly meet the ground. Placing buildings on piers such that exterior walls do not continue down to the ground is prohibited, with the exception of piers that support decks.

**FIGURE 19.72.14: STRUCTURES MEET THE GROUND PLANE**

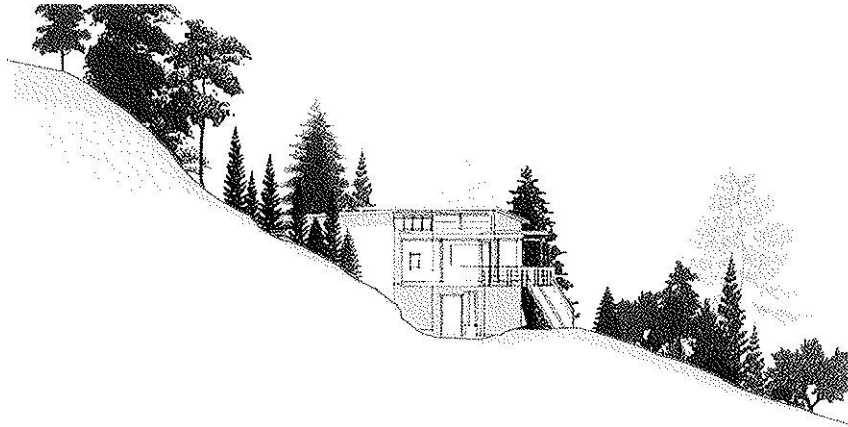


<b>Mandatory</b>	<b>Advisory</b>	<b>J. Design buildings on hillsides to follow the natural terrain. See Figure 19.72.15</b>
X		Buildings shall be located to minimize earth work and land disturbance.
X		Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Section 19.72.070 (Grading))

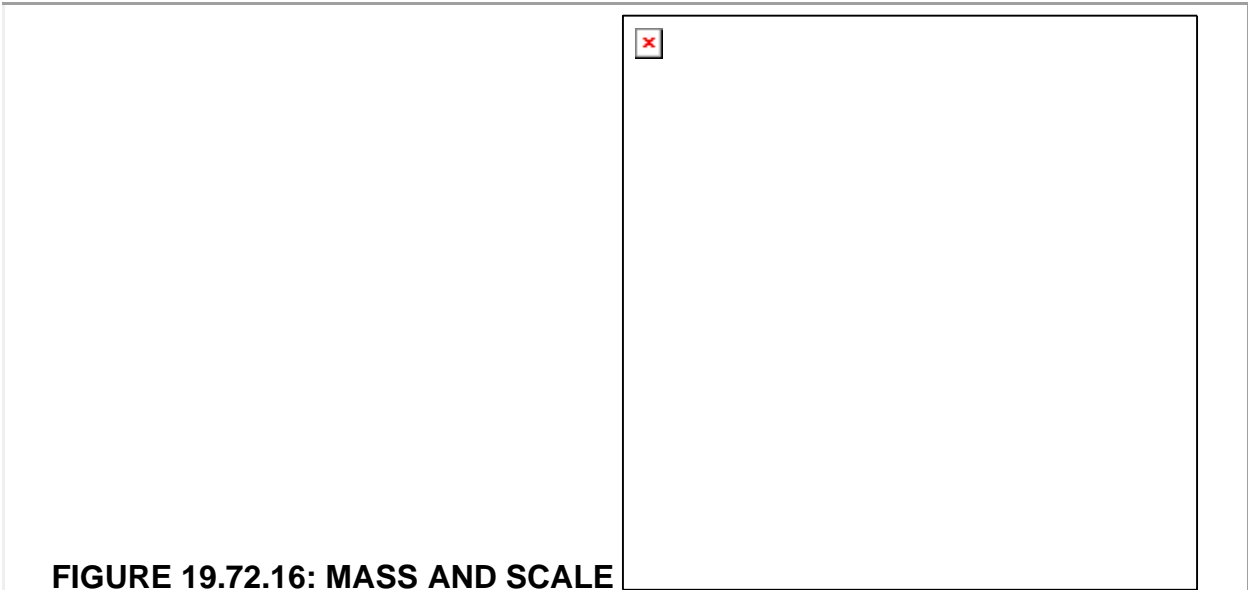




**FIGURE 19.72.15**



Mandatory	Advisory	<b>K. Design buildings to minimize mass and scale See Figure 19.72.16</b>
X		Building designs shall incorporate changes in the planes of walls and changes in the slope and height of roof lines to add variety, create visual interest, and minimize scale.
X		The massing of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.
X		Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.
X		Building mass and wall lines shall be broken up to complement natural canyon settings and slopes.



**FIGURE 19.72.16: MASS AND SCALE**

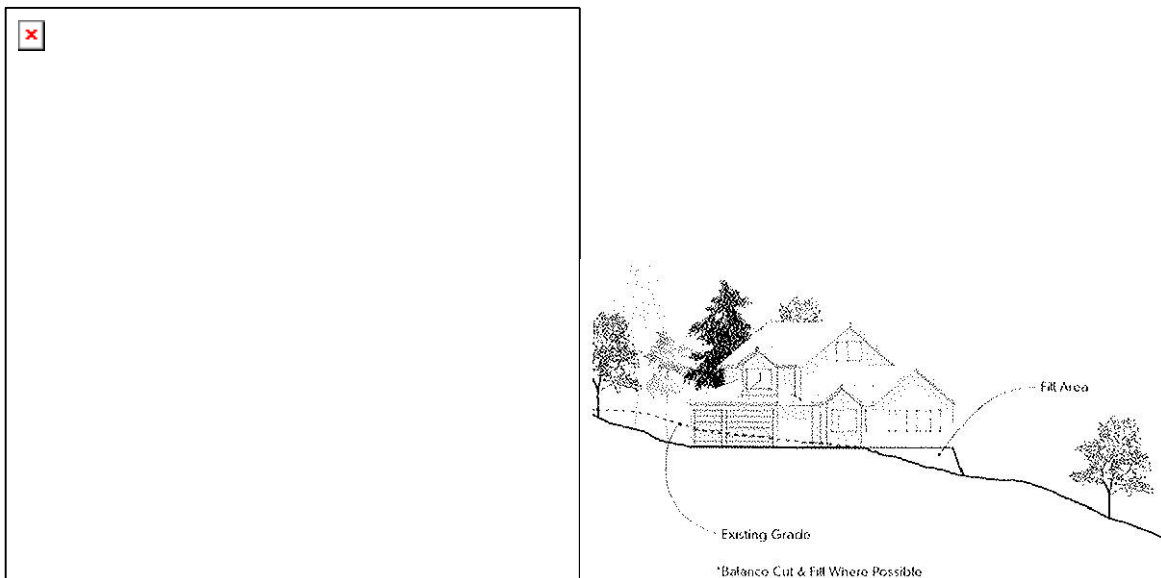


Mandatory	Advisory	<b>L. Select appropriate building materials and colors</b>
X		Predominant tones on exterior walls shall tend toward neutral colors, replicating natural textures—for example, warm earthy hues; dark green of forests; whites, greys, and grey-brown of the mountains; the tan of grasses; and similar colors. Bright, harshly contrasting color combinations are prohibited. Paint finishes shall have low levels of reflectivity.
	X	The use of self-weathering metals is encouraged. Chemically treating wood so that it can be allowed to self-weather is also encouraged.

<b>Mandatory</b>	<b>Advisory</b>	<b>M. Use fire-resistant roof surfacing materials that blend with the colors of the adjacent landscape.</b>
X		The color of roof surfacing materials shall blend with the surrounding landscape such as brown, tan, dark green, grey, etc.
X		Flammable wood roofing shingles are prohibited in the canyons or foothills.
<b>Mandatory</b>	<b>Advisory</b>	<b>N. Preserve existing trees and vegetation</b>
X		Significant trees and vegetation shall be preserved as provided in Section 19.72.110.
	X	When landscaping within the thirty-foot fire-break area, the use of fire-resistant plants is strongly encouraged.
X		Dryland species of plants shall be selected for slope re-vegetation.
<b>Mandatory</b>	<b>Advisory</b>	<b>O. Landscape in order to retain the original character and harmony among the various elements of a site.</b>
X		Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation.
	X	Landscaped areas should be an integral part of the development project, and not simply located in left-over space on the site. New planting should blend in with the existing landscape.
X		All disturbed areas shall be re-vegetated using native or adapted plant species and materials characteristic of the area.
	X	Use of fire-resistant plants is encouraged.
<b>Mandatory</b>	<b>Advisory</b>	<b>P. Limit site grading for buildings to preserve existing land forms. See Figure 19.72.17</b>

X		Building designs that require extensive cut and fills are prohibited. See Section 19.72.070.
	X	Modification of the natural terrain should be minimized.
X		Slopes steeper than thirty percent shall not be disturbed except as allowed by this chapter.
X		Buildings, driveways, and roads shall follow the natural contours of the site as feasible, and comply with Brighton excavation, grading, and erosion control standards.

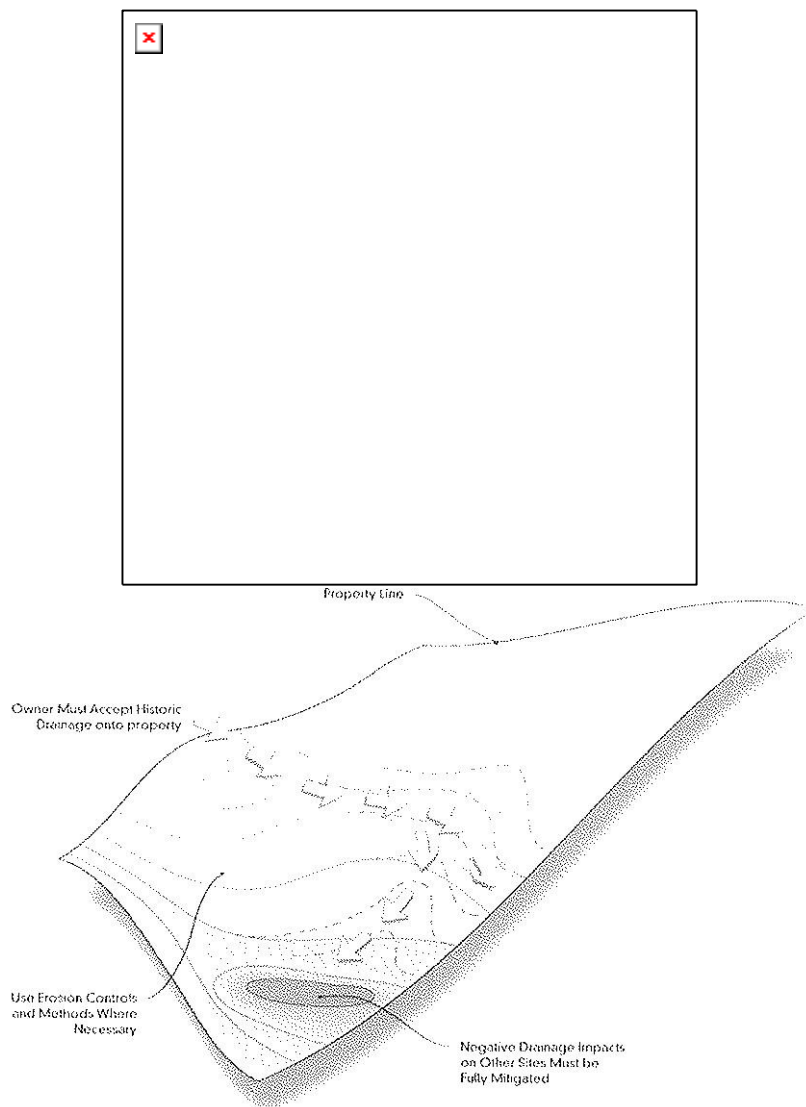
**FIGURE 19.72.17: BUILDINGS DESIGNED TO LIMIT GRADING**



<b>Mandatory Standard</b>	<b>Advisory Standard</b>	<b>Q. Preserve natural drainage patterns in site design. See Figure 19.72.18</b>
X		All final excavation, grading, and drainage plans shall conform to applicable Brighton excavation, grading, and erosion control standards.
X		Development shall preserve the natural surface drainage pattern unique to each site. Grading plans shall ensure that drainage flows away from structures, especially structures that are cut into hillsides.
X		Development must prevent negative or adverse drainage impacts on adjacent and surrounding sites.

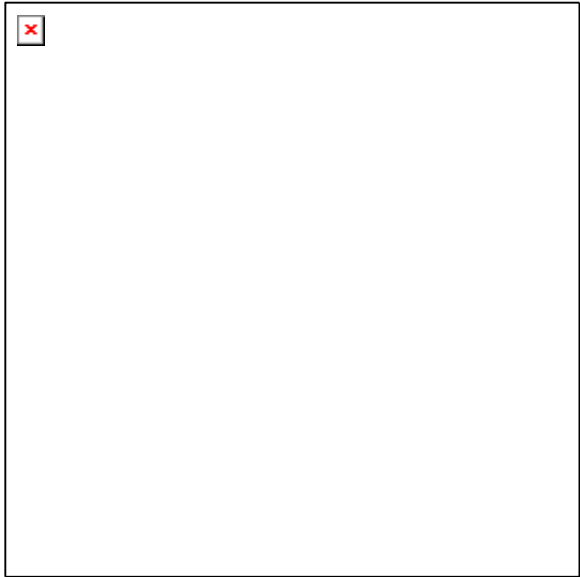
X		Standard erosion control methods are required during construction to protect water quality, control drainage, and reduce soil erosion. Sediment traps, small dams, or barriers of straw bales are generally required to slow the velocity of runoff.
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**FIGURE 19.72.18: PRESERVE NATURAL DRAINAGE PATTERNS**

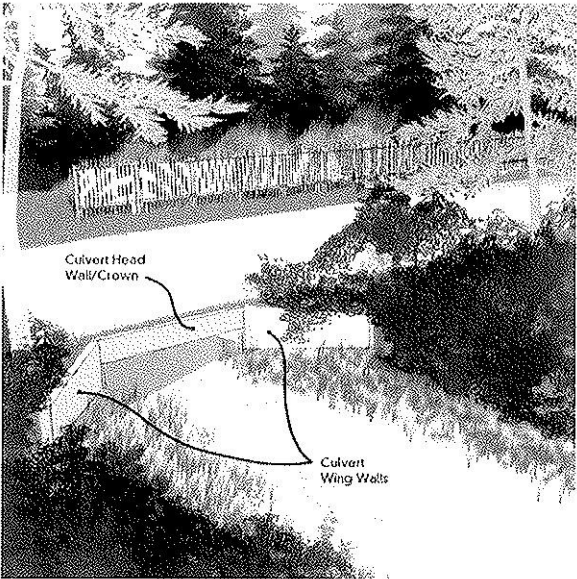


Mandatory	Advisory	<b>R. Locate buildings outside stream corridor buffer zones</b>
X		Permanent structures shall be located a minimum of one hundred feet horizontally (plan view) from the ordinary high-water mark of stream corridors or other bodies of water. At the discretion of the Director and based on site-specific soils, water, or vegetation studies, setback distances may be

		reduced as provided in Section 19.72.130 (Stream Corridor and Wetlands Protection).
X		Where feasible, developments shall not alter natural waterways.
<b>Mandatory</b>	<b>Advisory</b>	<b>S. Construct bridges for stream crossings. See Figure 19.72.19</b>
X		Culverts may only be installed on small side drainages, across swales, and on ephemeral or intermittent streams. (See Section 19.72.130, (Stream Corridor and Wetlands Protection)). Culverts are prohibited to cross perennial streams; bridges to cross perennial streams are permitted.
X		Bridges and culverts shall be sized to withstand one hundred year storm events. Concrete or stone head walls and side walls are required to maintain the integrity of the bridge structure. (See Chapter 19.74 (Floodplain Hazards)).



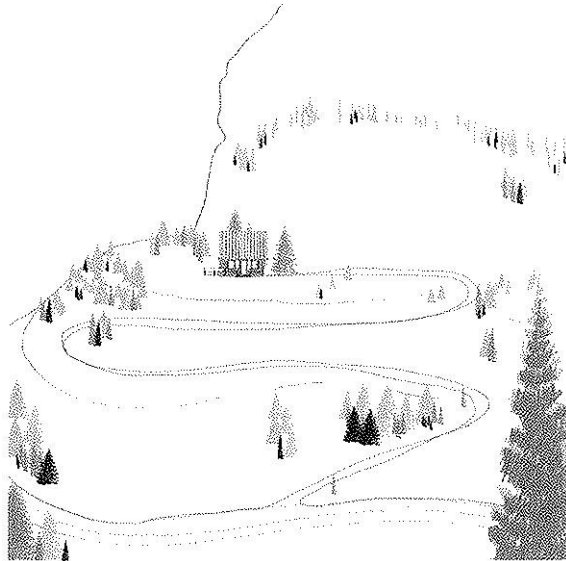
**FIGURE 19.72.19: CULVERTS**



Mandatory	Advisory	<p><b>T. Design traffic circulation to respect existing topography, achieve acceptable slopes, and adhere to minimum width and turning standards.</b></p> <p><b>See Figure 19.72.20</b></p>
X		<p>Vehicular access shall be safe and have adequate width to allow for snowplowing and snow storage.</p>
X		<p>Access roads shall avoid steep grades and sharp turning radii that can make access, especially in the winter, difficult.</p>



**FIGURE 19.72.20: DRIVEWAY DESIGN**



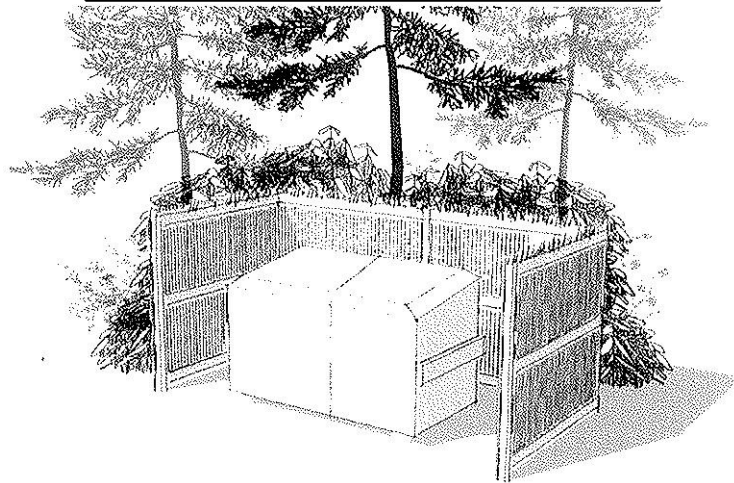
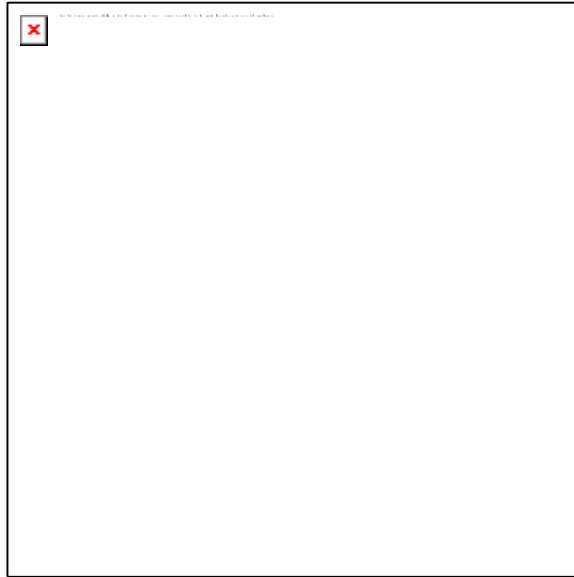
Mandatory	Advisory	<b>U. Provide safe, adequate off-street parking with year-round access</b>
X		New development shall comply with off-street parking requirements provided in this chapter.
	X	Shared driveways and shared parking areas with adjoining owners are encouraged.
X		Off-street parking areas shall be large enough to avoid vehicles having to back out onto a public street.



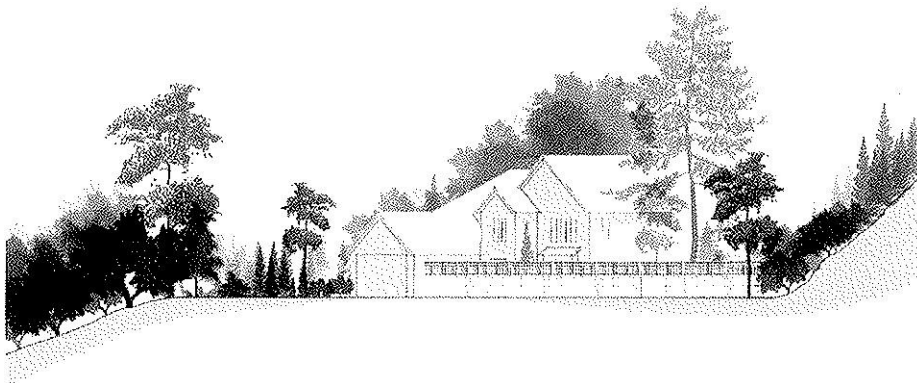
<b>Mandatory</b>	<b>Advisory</b>	<b>V. Design new roads and driveways to reduce their visual impact</b>
	X	Roads and driveways should be screened using existing land forms and vegetation. Long tangents, including on side roads intersecting with arterial roads or highways, should be avoided in favor of curvilinear alignments reflecting topography.
X		Cuts and fills shall be re-graded to reflect adjacent land forms and re-vegetated with native plants. See Section 19.72.070.
<b>Mandatory</b>	<b>Advisory</b>	<b>W. Respect existing land forms, contours, and natural settings in the placement of fences. See Figures 19.72.21 and 19.72.22</b>
X		Fences may be erected to screen service and outdoor areas or provide a safety barrier. (See Section 19.72.070 (Grading Standards—Retaining Walls))
X		<p>Fencing used to screen patios, other outdoor areas, and service areas may be composed of the following fencing materials:</p> <ul style="list-style-type: none"> <li>a. Natural or stained wood</li> <li>b. Brick</li> <li>c. Rock</li> <li>d. Stone</li> <li>e. Pre-cast fences or walls textured and colored to imitate any of the above materials</li> <li>f. Wrought iron</li> </ul>
X		<p>The following fencing materials are prohibited:</p> <ul style="list-style-type: none"> <li>a. Solid board</li> <li>b. Concrete or concrete block</li> <li>c. Chain link, except around telecommunications facilities, public utility compounds, and other related or similar facilities where security concerns and terrain make this type of fencing practical, as approved by the Planning Commission for fences around conditional uses and approved by the Zoning Administrator for fences around permitted uses. Where a chain link fence is used, a powder or dull coating of the fence is required.</li> <li>d. Plywood</li> </ul>

		<p>e. Painted materials</p> <p>f. Vinyl, except rail fences for containment of horses</p>
X		Rail fences and low rock walls are permitted along arterial roads and highways, and at other locations to delineate property lines.
X		Fences located along property lines and arterial roads or highways are limited to a maximum height of forty-two inches, except where necessary for security, safety, protection of public health, wildlife, private property, livestock, etc.
	X	Solid barrier fences located along arterial roads or highways or placed directly on a site's front property line are discouraged.
X		Walls and fences are to be reviewed on a site-by-site basis, and require a building permit.

**FIGURE 19.72.21: OPAQUE FENCE FOR SCREENING**



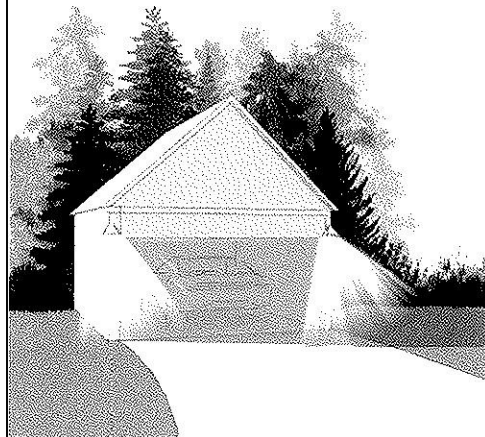
**FIGURE 19.72.22: FENCES RESPECT EXISTING LAND FORMS**



Mandatory	Advisory	<p><b>X. Select and locate lighting fixtures only where needed to provide for the safe movement of people on the site.</b></p> <p><b>See Figure 19.72.23</b></p>
X		<p>Light poles for public outdoor recreational facilities are limited to sixty feet in height. Light poles for outdoor recreational facilities on private residential property are limited to eighteen feet in height. Both require site plan review which may require restrictions on locations and hours of illumination based upon impacts on adjoining properties.</p>
X		<p>With the exception of light poles for outdoor recreational facilities, lights poles, and building-mounted fixtures shall be designed with fully shielded luminaires directed downward.</p>



**FIGURE 19.72.23: SHIELDED LIGHTING**



#### **19.72.180 Exceptions for minor ski resort improvements.**

Minor ski resort improvements are permitted the following exceptions, subject to approval of the site plan application for FCOZ:

- A. Development on slopes greater than thirty percent.
- B. Development on designated ridge lines or ridgeline protection area.
- C. No Limitations on terracing.
- D. Permissions for streets, roads, private access roads, and other vehicular routes to cross slopes over fifty percent, including limitations on driveway length.
- E. Removal of trees and vegetation, therefore no requirements for tree replacement.

#### **19.72.190 Waivers for mountain resort improvements that are not within a mountain resort zone, public uses and mineral extraction and processing.**

- A. Authority to Grant Waivers. The topographic conditions, soil characteristics, hydrologic patterns, climatic constraints, susceptibility to natural hazards, vegetation, wildlife habitat concerns, and aesthetic considerations of foothill and canyon areas often create circumstances in which strict compliance with adopted standards is not only difficult but sometimes impossible to achieve. As these challenges are frequently created by the very nature and operational characteristics of mountain resorts, mineral extraction and processing operations, and many public uses, and are therefore most often self-imposed, other avenues of administrative relief are sometimes necessary and appropriate. Accordingly, the land use authority may waive or modify the development standards for these uses.
- B. Waiver Request Procedures.
  - 1. A petition or request for a waiver or modification of an FCOZ development standard may be submitted in writing by the owner or authorized agent of the subject property. A mountain resort may only submit such a petition or request on property that is not within a mountain resort zone, which it owned prior to the effective date of the 2017 modifications to FCOZ. The petition or request shall be made concurrent with the related land use permit application—for example, conditional use application. The petition or written request shall clearly explain:
    - a. Those aspects or elements of the development proposal that are strictly prohibited.
    - b. All FCOZ regulations requested to be waived or modified in order for the development to reasonably proceed.
    - c. The basis, justification or grounds for granting the waiver or modification.
    - d. Why other common designs or improvements that may be less impactful on the environment and adjacent properties are not being considered.

2. Each proposed waiver or modification is to be referred for decision to the relevant land use authority under the ordinance. The waiver or modification petition is to be accompanied by a written staff report with recommendations.
  3. When a public hearing is required, the notice shall be given fourteen days in advance of the hearing and shall specify the waivers or modifications requested, the relevant ordinance provisions from which the waivers or modifications are sought, and the general nature of the development that is proposed if the requested waivers or modifications are granted.
- C. Approval Standards. In deciding whether to grant waivers or modifications to the development standards of the foothills and canyons overlay zone, the land use authority shall consider the following standards as deemed applicable by the land use authority:
1. The proposed waiver and improvements contribute to the overall use, operation, and maintenance of the property, and whether reasonable alternative means exist to reduce or mitigate adverse impacts.
  2. Strict compliance with these regulations may result in substantial economic hardship or practical difficulties for the owner of the property.
  3. Strict or literal interpretation and enforcement of the specified regulation may result in a development approach inconsistent with the intent and objectives of this chapter.
  4. The waivers or modifications may result in a development proposal that better preserves area views, reduces adverse impacts on existing trees and vegetation, reduces the overall degree of disturbance to steep slopes, protects wildlife habitat, or reflects a greater degree of sensitivity to stream corridors, wetlands, rock outcrops, and other sensitive environmental features in the vicinity of the proposed improvements.
  5. The granting of the waiver or modification may have neutral or beneficial impact to the public health, safety, or welfare, or to properties or improvements in the vicinity.
  6. The proposed development, as modified by the request, is consistent with the goals, objectives, and policies of the adopted community general plan applicable
  7. Creative architectural or environmental solutions may be applied to alternatively achieve the purposes of this chapter.
  8. The development in all other respects conforms to the site design, development, and environmental standards set forth in the foothills and canyons overlay zone and in all other applicable ordinances and codes.
  9. The waivers or modifications requested do not violate other applicable federal, state, and local laws.
- D. Waivers. Slope waivers are not required for facilities or uses with slopes of thirty percent or less. Slope waivers are required for eligible development activities associated with such land uses according to Table 19.16.2.

**TABLE 19.16.2: PERMISSIBLE SLOPE RANGES FOR  
ELIGIBLE DEVELOPMENT ACTIVITIES**

<i>Authority to Grant Waivers</i>	
Slope Range	Eligible Development Activities
Thirty percent or less	<ul style="list-style-type: none"> <li>• No slope waiver required</li> </ul>
Greater than thirty percent up to forty percent	<ul style="list-style-type: none"> <li>• All development activities associated with allowed uses</li> </ul>
Greater than forty percent up to fifty percent	<ul style="list-style-type: none"> <li>• Pedestrian trails</li> <li>• Non-motorized vehicle trails</li> <li>• Motorized vehicle roads and trails for emergency or maintenance purposes</li> <li>• Ski runs, ski lifts and supporting appurtenances and other mountain resort accessory activities</li> </ul>
Greater than fifty percent	<ul style="list-style-type: none"> <li>• Pedestrian trails</li> <li>• Non-motorized vehicle trails</li> <li>• Ski runs, ski lifts and supporting appurtenances and other mountain resort accessory activities</li> </ul>

**E. Action on Waiver Requests.**

1. The waiver or modification request may be approved as proposed, denied, or approved with conditions.
2. The decision on the request shall include the reasons for approval or denial.
3. In granting a waiver from or modification of development standards, conditions may be imposed to mitigate the impacts of the proposed development on adjacent properties and the area. These may include, for example, measures to:
  - a. protect scenic vistas, especially views from public rights-of-way and public lands,
  - b. protect natural settings in the vicinity of site improvements, and
  - c. enhance the relationship to and compatibility with other structures and open spaces in the vicinity of the proposed improvements.
4. All development shall comply with approved plans. Any proposed revisions or changes to plans requires a resubmittal and request for final action.



## **19.72.200 Definitions.**

For the purposes of this Chapter, the following terms shall have the following meanings:

"Alteration." Any change or rearrangement in the supporting members of an existing structure, such as bearing walls, columns, beams, girders, or interior partitions, or any change in the dimensions or configurations of the roof or exterior walls.

"Building site." A space of ground occupied or to be occupied by a building or group of buildings.

"Caliper." A standard for trunk measurement of nursery stock, determined by measuring the diameter of the trunk six inches above the ground for up to and including five-inch caliper size, and twelve inches above the ground for larger trees.

"Clustering." A development or subdivision design technique that concentrates buildings or lots on a part of the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally sensitive areas.

"Driveway." A private area used for ingress and egress of vehicles, which allows access from a street or road to a building, structure, or parking spaces.

"Engineering geologist." A geologist who, through education, training and experience, is able to conduct field investigations and interpret geologic conditions to assure that geologic factors affecting engineered works are recognized, adequately interpreted, and presented for use in engineering practice and for the protection of the public.

"Expansion." An increase in the size of an existing structure or use, including physical size of the property, building, parking, and other improvements.

"Fence." A structure erected to provide privacy or security, which defines a private space or is used to constrain domestic animals.

"Geotechnical engineer." A professional engineer licensed in the state of Utah, whose education, training, and experience is in the field of geotechnical engineering.

"Grading." Any change of existing surface conditions by excavating, placing of any soils or rocks, or stripping of vegetation.

"Landscape architect." A person who is licensed to practice landscape architecture by the state of Utah.

"Limits of disturbance." The area(s) in which construction and development activity are to be contained, including development and construction of the principal building, accessory structures, recreation areas, utilities, services, driveways, septic tank drain fields and related system requirements, storm drainage, and other similar services or improvements. The following need not be included in limits of disturbance:

- A. Up to ten feet of paved or unpaved shoulders for driveways.

- B. Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Lot of Record." A lot or parcel of land established in compliance with all laws applicable at the time of its creation and recorded in the office of Brighton recorder either as part of a recorded subdivision or as described on a deed, having frontage upon a street, a right-of-way approved by the Land use hearing officer, or a right-of-way not less than twenty feet wide.

"Minor ski resort improvements." Construction activities associated with the ongoing operation and maintenance of previously approved facilities, ski runs, ski trails, ski lifts and related resort appurtenances, equipment, recreational access corridors, pedestrian or non-motorized trails, non-snow related activities and accessory uses, or vehicular maintenance roads constructed or used in connection with the construction, operation, or maintenance of a resort.

"Mountain resort or Ski resort."

- A. Any publicly or privately developed recreational use permitted by relevant local, state, and federal authorities, for snow-related activities, accessory year-round or non-snow related activities, and associated facilities and improvements.
- B. Such uses, activities, and facilities may be conducted on a commercial or membership basis, whether solely on privately-owned property or on privately-owned lots or parcels interspersed with public land under a special use permit from the U.S. Forest Service or other public agency, primarily for the use of persons who do not reside on the same lot or parcel as that on which the recreational use is located.
  - 1. Snow related activities include but are not limited to: downhill skiing, cross-country skiing, snowboarding, snow shoeing, snowmobiling, or other snow related activities.
  - 2. Accessory year-round and non-snow related activities include but are not limited to: alpine recreational activities; cultural events and festivals; and conference events.
  - 3. Associated facilities and improvements include, but are not limited to: lodging; food, retail, and support services; recreational and fitness facilities; parking accommodations; and other uses of a similar nature specifically authorized in conjunction with the operation of a year-round resort.

"Natural open space." Land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" is defined as land with all of the following:

- a. An average slope less than thirty percent.
- b. Soils of a suitable depth and type based on soil exploration and percolation tests in accordance with the regulations of the Utah Department of Environmental

Quality in order to ensure against adverse impacts on surface and groundwater quality.

- c. Minimum distance from any stream corridor as defined in this Chapter.
- d. Free from any identified natural hazards such as flood, avalanche, landslide, high water table and similar features. (See Chapter 19.74 (Floodplain Hazard Regulations) and Section 19.72.120 (Natural Hazards)).

"Open Space." Any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary high water mark."

- A. The line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means, taking into consideration the characteristics of the surrounding areas.
- B. Where the ordinary high water mark cannot be found, the top of the channel bank shall be substituted.
- C. In braided channels, the ordinary high water mark shall be measured to include the entire stream feature.

"Overlay zone." A zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Qualified professional." A professionally trained person with the requisite academic degree, experience, and professional certification or license in the field(s) relating to the subject matter being studied or analyzed.

"Retaining wall." A wall designed and constructed to resist the lateral displacement and erosion of soils or other materials.

"Ridgeline protection area." An area consisting of a prominent ridgeline that is highly visible from public right-of-ways or trails, and that includes the crest of any such designated prominent hill or slope, plus the land located within one hundred feet horizontally (map distance) on either side of the crest.

"Significant trees." Live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Site plan." An accurately scaled plan that illustrates the existing conditions on a land parcel and the details of a proposed development, including but not limited to: topography; vegetation; drainage; flood plains; wetlands; waterways; landscaping and open space; walkways; means of ingress and egress; circulation; utility easements and services; structures and buildings; lighting; berms, buffers and screening devices; development on adjacent property; and any other information that may be required to make an informed decision.

"Slope." The level of inclination from the horizontal, determined by dividing, in fifty foot intervals, the average horizontal run of the slope into the average vertical rise of the same slope and converting the resulting figure into a percentage value.

"Stream, Ephemeral." Those channels, swales, gullies, or low areas that do not have flow year-round or are not shown on United States Geological Services (U.S.G.S.) topographic maps as perennial streams. These are generally channels that are tributary to perennial streams, other ephemeral streams, terminal low areas, ponds, or lakes. They are typically dry except during periods of snowmelt runoff or intense rainfall. (Contrast with "Stream, Perennial.")

"Stream, Perennial." Those streams, excluding ephemeral streams, or ditches and canals constructed for irrigation and drainage purposes, which flow year-round during years of normal rainfall, and that are identified on the appropriate United States Geological Services (U.S.G.S.) topographic maps as perennial streams. (Contrast with "Stream, Ephemeral.")

"Stream corridor." The corridor defined by a perennial stream's ordinary high water mark.

"Substantial economic hardship." A denial of all reasonable economic use of a property.

"Trails." A type of natural open space that is a system of public recreational pathways located within the Town for use by the public for walking, and/or biking as designated.

"Undevelopable" means strict application of this title prevents the minimum development necessary to establish a permitted or conditional use in the underlying zone on the property.

"Vegetation." Living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

"Waiver." Permission to depart from the requirements of an Ordinance with respect to the application of a specific regulation.

## **Chapter 19.74      FLOODPLAIN HAZARD REGULATIONS**

### **Sections:**

[19.74.010 Findings.](#)

[19.74.020 Purpose of provisions.](#)

[19.74.030 Methods of reducing flood losses.](#)

[19.74.040 Areas of special flood hazard.](#)

[19.74.050 Floodways.](#)

[19.74.060 Relationship of floodplain hazard regulations to zones.](#)

[19.74.070 Conditional use permits required when.](#)

[19.74.080 Construction or development—Special approval required.](#)  
[19.74.090 Construction or development—Duties of director of development services division.](#)  
[19.74.100 Protective standards generally.](#)  
[19.74.110 Anchoring.](#)  
[19.74.120 Construction materials and methods.](#)  
[19.74.130 Utilities.](#)  
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[19.74.190 Variances and appeal procedures.](#)  
[19.74.200 Warning and liability disclaimer.](#)  
[19.74.210 Definitions.](#)

**19.74.010 Findings.**

- A. Flood hazard areas of Brighton are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. The inundation is caused by the cumulative effect of channel obstructions which increase flood heights and velocities. Uses that are inadequately floodproofed, elevated or otherwise protected from floodwater also contribute to flood loss.

**19.74.020 Purpose of provisions.**

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for flood-control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;

- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood-blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

#### **19.74.030 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases of erosion, flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will divert floodwaters or which may increase flood hazards in other areas.

#### **19.74.040 Areas of special flood hazard.**

- A. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Town Brighton. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study, Brighton, Utah, Unincorporated Areas," December 18, 1985, with accompanying Flood Insurance Rate Maps, Flood Boundary-Floodway Maps, and any revisions thereto, are adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the Salt Lake County Development Services Division, 2001 South State Street, Salt Lake City, Utah 84190-4090.
- B. The director of development services shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, or other development in zone A meet the provisions of Sections 19.74.050, 19.74.150, 19.74.160, 19.74.170 and 19.74.180. Such other source base flood elevation data shall be more specifically provided by the developer as determined by a registered

professional engineer for subdivision and other proposed developments which contain at least fifty lots or five acres (whichever is less).

#### **19.74.050 Floodways.**

Located within areas of special flood hazard established in Section 19.74.040 are areas designated as "floodways." Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Encroachments, including fill, new construction, substantial improvements, placement of manufactured homes, and other developments, are prohibited unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If subsection A of this section is satisfied, all new construction and substantial improvements and placement of manufactured homes shall comply with all applicable flood-hazard reduction provisions of Sections 19.74.100 through 19.74.180.

#### **19.74.060 Relationship of floodplain hazard regulations to zones.**

The floodplain hazard regulations of this chapter shall be supplemental to, and not in lieu of, the applicable zoning provisions of the zone in which the land is located, and/or general provisions under Title 19 of this code, as amended. Property located within such areas of special flood hazard shall be developed only in conformance with the provisions set forth herein. In cases of conflict between such zone classifications and the floodplain hazard regulations, the most restrictive provisions shall govern. Permitted and conditional uses permitted in the areas of special flood hazard shall be developed only in conformance with the provisions set forth herein. All uses involving development, as defined in this chapter, shall further meet the supplemental conditions and standards set forth in this chapter.

#### **19.74.070 Conditional use permits required when.**

A conditional use permit, if required by this title, shall be obtained prior to special flood hazard area approval under Section 19.74.080. Prior to issuance of a conditional use permit, the planning commission shall insure that requirements of this chapter are met.

#### **19.74.080 Construction or development—Special approval required.**

- A. Approval by the development services division shall be obtained before construction or development begins within an area of special flood hazard established in Section 19.74.040. Application for such approval shall be made on forms furnished by the development services division, and may include, but not be limited to: Plans in

duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

B. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the lowest floor, including basement, of all structures except those located in zone A where base flood elevation data was not available nor required by this chapter;
2. Elevation in relation to mean sea level to which any structure has been floodproofed except those located in zone A where base flood elevation data was not available nor required by this chapter;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Sections 19.74.150 through 19.74.180; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**19.74.090 Construction or development—Duties of director of development services division.**

The director of development services division shall be responsible to:

A. Review Applications.

1. Review all applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 19.74.050 are met,
2. Review all applications to determine that the requirements of this chapter have been satisfied,
3. Review all applications to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required;

B. Maintain Information File.

1. Obtain and record the actual elevation provided by the developer (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures except those located in zone A where base flood elevation data was not available nor required by this chapter,
2. For all new or substantially improved floodproofed structures except those located in zone A where base flood elevation data was not available nor required by this chapter:
  - a. Verify and record the actual elevation provided by the developer (in relation to mean sea level), and



- b. Maintain the floodproofing certifications required in subsection B3 of Section 19.74.080,
- 3. Maintain for public inspection all records pertaining to the provisions of this chapter;
- C. Verify Alteration of Watercourses. Verify that:
  - 1. A permit has been obtained from the division of flood control and water quality for any alteration of a watercourse identified as a flood-control facility in Section 17.08.040 of this code,
  - 2. A permit has been obtained from the State Engineer for alteration of a natural stream channel,
  - 3. Maintenance is provided for within the altered or relocated portion of such watercourse so the flood-carrying capacity is not diminished,
  - 4. Notification has been made to cities adjacent to the watercourse and to the State Division of Comprehensive Emergency Management, prior to any alteration or relocation of a watercourse, and evidence of such notification has been submitted to the Federal Emergency Management Agency.

#### **19.74.100 Protective standards generally.**

In all areas of special flood hazards, the following standards, set out in Sections 19.74.110 through 19.74.140, are required.

#### **19.74.110 Anchoring.**

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- B. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, over-the-top and frame ties to ground anchors. This requirement is in addition to applicable anchoring requirements for resisting wind forces.

#### **19.74.120 Construction materials and methods.**

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage. Fully enclosed areas below the

lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

#### **19.74.130 Utilities.**

- A. All new and replacement water-supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems, and discharge from the systems into floodwaters; and
- C. On-site waste-disposal systems shall be located to avoid impairment to them or contamination from them during the flooding.

#### **19.74.140 Subdivision proposals.**

- A. All subdivision proposals shall minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

#### **19.74.150 Specific protective standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 19.74.040, the following provisions set out in Sections 19.74.160 through 19.74.180 are required.

#### **19.74.160 Residential construction.**

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

#### **19.74.170 Nonresidential construction.**

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement,

elevated to a minimum of one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- A. Be floodproofed so that below one foot above the base flood level the structure is watertight, with walls substantially impermeable to the passage of water;
- B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and affects of buoyancy; and
- C. Provide that where a nonresidential structure is intended to be made watertight below the base flood level:
  - 1. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this section, and
  - 2. A record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be provided to the director of development services as set forth in Section 19.74.090(B)(2).

#### **19.74.180     Manufactured homes.**

All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system in accordance with Section 19.74.110.

#### **19.74.190     Variances and appeal procedures.**

The land use hearing officer, as designated by the zoning ordinance of Brighton, shall hear and decide all appeals and requests for variances from the requirements of this chapter, as provided in Chapter 19.92 of this title, as amended. The following conditions shall apply, in addition to the provisions of Chapter 19.92:

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below one foot above the base level, providing the land use hearing officer has considered all technical evaluations, all relevant factors, and standards specified in other sections of this chapter, providing the following items have been considered:
  - 1. The danger that materials may be swept onto other land to the injury of others;
  - 2. The danger to life and property due to flooding or erosion damage;
  - 3. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
  7. The compatibility of the proposed use with the existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon:
1. A showing of good and sufficient cause;
  2. A determination that failure to grant the variance would result in exceptional and undue hardship to the applicant; and
  3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, as identified in subsection A1 of this section, or conflict with existing local laws or ordinances.
- F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below one foot above the base flood elevation and that the cost of flood insurance will be commensurate with the increased flood risk resulting from the reduced lowest floor elevation.

- G. The land use hearing officer shall maintain the record of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

#### **19.74.200 Warning and liability disclaimer.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Brighton, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

#### **19.74.210 Definitions.**

As used in this chapter:

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

### **Chapter 19.75 GEOLOGICAL HAZARDS ORDINANCE\* (Formerly "Natural Hazard Areas")**

#### **Sections:**

[19.75.010 Purpose of provisions.](#)

[19.75.020 Definitions.](#)

[19.75.030 Applicability.](#)

[19.75.040 Disputes.](#)

[19.75.050 Studies and reports required.](#)

[19.75.060 Geologic hazard and engineering geology reports.](#)

[19.75.070 Review of reports—Approval procedure.](#)

[19.75.080 Requirements in geologic hazard areas.](#)

[19.75.081 Active fault considerations.](#)

[19.75.082 Liquefaction considerations.](#)

[19.75.083 Avalanche considerations.](#)

[19.75.090 Disclosure.](#)

[19.75.091 Disclosure when a geologic hazards report is required.](#)

[19.75.092 Disclosure when a geologic hazards report is not required.](#)

[19.75.100 Warning and disclaimer.](#)

[19.75.110 Change of use.](#)

[19.75.120 Conflicting regulations.](#)

#### **19.75.010 Purpose of provisions.**

The purpose of the geologic hazards ordinance is to promote the health, safety and general welfare of the citizens of Brighton, and minimize the potential adverse effects of geologic hazards to public health, safety and property by encouraging wise land use in geologically hazardous areas.

#### **19.75.020 Definitions.**

As used in this chapter, the following terms have the following meanings:

"Active fault" means a fault displaying evidence of greater than four inches of displacement along one or more of its traces during Holocene time (about 10,000 years ago to the present).

"Avalanche" means a large mass of snow, ice, and debris in swift motion down a slope; includes both wet and dry snow avalanches.

"Buildable area" means that portion of a site where an approved engineering geology and/or geotechnical report, as required, has indicated is not impacted by geologic hazards, or concluded that the identified hazards can be mitigated to a level where risk to human life and property are reduced to an acceptable and reasonable level, and where structures may be safely sited. Buildable areas must be clearly marked on the site plan and/or final approved plat, as appropriate.

"Critical facilities" means essential facilities, and lifelines such as major utility, transportation, and communication facilities and their connections to essential facilities.

"Debris flow" means a slurry of rock, soil, organic material, and water transported in an extremely fast and destructive flow that flows down channels and onto and across alluvial fans; includes a continuum of sedimentation events and processes including debris, flows, debris floods, mudflows, clearwater floods, and alluvial fan flooding.

"Development" includes all critical and essential facilities, subdivisions, single- and multi-family dwellings, commercial and industrial buildings, additions to existing buildings, storage facilities, pipelines and utility conveyances, and other land uses.

"Engineering geologist" means a geologist who, through education, training and experience, is able to conduct field investigations and interpret geologic conditions to assure that geologic factors affecting engineered works are recognized, adequately interpreted, and presented for use in engineering practice and for the protection of the public.

"Engineering geology" means the application of geological data, principles and interpretation so that geological factors affecting planning, design, construction, and maintenance of engineered works are properly recognized and adequately interpreted.

"Essential facility" means buildings and other structures that are intended to remain operational in the event of extreme environmental loading from snow or earthquakes, including all Category II and III structures as classified in Table 1604.5 of the Building Code.

"Fault" means a fracture in the earth's crust forming a boundary between rock or soil masses that have moved relative to each other (see "Active fault").

"Fault setback" means an area on either side of a fault within which construction of structures for human occupancy or critical facilities is not permitted.

"Fault scarp" means a steep slope or cliff formed by movement along a fault.

"Fault trace" means the intersection of a fault plane with the ground surface, often present as a fault scarp, or detected as a lineament on aerial photographs.

"Fault zone" means a corridor of variable width along one or more fault traces, within which deformation has occurred.

"Geologic hazard" means a surface fault rupture, liquefaction, landslide, debris flow, rockfall, avalanche, and/or other geologic processes that may present a risk to life and property.

"Geologic hazard maps" refers to the following maps showing Geologic Hazards Special Study Areas in Salt Lake County:

- A. "Surface Fault Rupture and Liquefaction Potential Special Study Areas" dated March 31, 1989 and revised March 1995;
- B. "Avalanche Special Study Areas" dated March 31, 1989;
- C. "Landslide, Debris Flow, and Rockfall Special Study Area Map" dated April 9, 2002.

"Geologic Hazard Special Study Area" means a potentially hazardous area as shown on the geological hazards maps, or in other areas defined under "Applicability" (Section 19.75.030), within which hazard investigations are generally required prior to development.

"Geotechnical Engineer" means a professional engineer licensed in the State of Utah whose education, training and experience, is in the field of geotechnical engineering.

"Geotechnical Engineering" means the investigation and engineering evaluation of earth materials including soil, rock and man-made materials and their interaction with earth retention systems, foundations, and other civil engineering works. The practice involves the fields of soil mechanics, rock mechanics, and earth sciences and requires knowledge of engineering laws, formulas, construction techniques, and performance evaluation of engineering.

"Governing body" means Brighton Council, or to a future successor body to Brighton Council.

"Landslide" means a general term for the downslope movement of a mass of soil, surficial deposits or bedrock, including a continuum of processes between landslides, earthflows, mudflows, debris flows and debris avalanches, and rockfall.

"Liquefaction" means a process by which certain water-saturated soils lose bearing strength because of earthquake-related ground shaking and subsequent increase of groundwater pore pressure.

"Non-Buildable Area" means that portion of a site which an engineering geology report has concluded may be impacted by geologic hazards that cannot be feasibly mitigated to a safe level, and where siting of structures is not permitted.

"Rockfall" means a rock, or mass of rock, newly detached from a cliff or other steep slope which moves downslope by falling, rolling, toppling, or bouncing; includes rockslides, rockfall avalanches, and talus.

"Setback" means an area within which construction of habitable structures or critical facilities is not permitted.

"Slope Stability" means the resistance of a natural or artificial slope or other inclined surface to failure by landsliding; usually assessed under both static and dynamic (earthquake induced) conditions.

"Structure designed for human occupancy" means any residential dwelling or other structure used or intended for supporting or sheltering any human occupancy.

#### **19.75.030    Applicability.**

These regulations are applicable to:

- A. All lands within Geological Hazard Special Study Areas in Salt Lake County, as shown on the following geologic hazards maps on file with Salt Lake County Planning and Development Services Division:



1. "Surface Fault Rupture and Liquefaction Potential Special Study Areas" dated March 31, 1989 and revised March 1995;
  2. "Avalanche Special Study Areas" dated March 31, 1989; and
  3. "Landslide, Debris Flow, and Rockfall Special Study Areas" dated April 9, 2002.
- B. Because not all geologic hazards are identified on the above maps due to their scale, this ordinance also applies to areas within the Foothills and Canyons Overlay Zone, as indicated by a map of that title adopted on January 21, 1998, Chapter 19.72 of the Brighton Zoning Ordinance, as amended; and
- C. Areas where slopes are in excess of thirty percent; and
- D. Areas where topography, geology, soil conditions, slope instability, slope angle or aspect, whether on-site or off-site, indicate a potential for geologic hazards.

Such maps and areas described above and all amendments thereto are made a part of this chapter as if fully described and detailed herein. Each change in the geologic hazards maps shall be subject to the amendment procedures set forth in Chapter 19.90.

#### **19.75.040 Disputes.**

Disputes may arise when:

- a. there is a conflict between the boundary lines illustrated on the map and actual field conditions,
- b. detailed investigations show that mapped hazards are not present within a particular area, or
- c. field conditions indicate that unmapped hazards may exist that require study.

Disputes shall be settled as follows:

- A. The person disputing the special study area boundary or the presence of mapped or unmapped hazard(s) within a particular area shall submit technical and geologic evidence to support their claim to Brighton Geologist in the form of a site-specific geologic hazards report (see Section 19.75.060).
- B. Brighton Geologist may request the Utah Geological Survey, U.S. Forest Service, and/or other experts to review the evidence (third-party review) prior to making a decision concerning the dispute. The cost of the third-party review shall be paid by the person disputing the map.
- C. Brighton Geologist may allow deviations from the mapped boundary line only if evidence is provided by the applicant that, to the satisfaction of Brighton Geologist, clearly and conclusively establishes that the Geologic Hazard Special Study Area boundary location is incorrect, or that the mapped hazards are not present within a particular area.
- D. Any decision of Brighton Geologist may be appealed to the land use hearing officer pursuant to the appeal procedures set forth in Section 19.92.050.

**19.75.050 Studies and reports required.**

Any applicant requesting development on a parcel of land within a Geologic Hazard Special Study Area, as required under Chart 19.75.050, or in other applicable areas as defined in Section 19.75.030, shall submit to the Planning and Development Services Division two copies of a site-specific geologic hazard study and report.

**Chart 19.75.050****Special Study Area Report Requirements****Based on Special Study Area Maps****Is a Site-Specific Geologic Hazards Report Required Prior to Approval?**

		Liquefaction Potential			
Land Use (Type of Facility)	Surface Fault Rupture	HIGH and MODERATE	LOW and VERY LOW	Landslide, Debris Flow & Rockfall	Avalanche
Critical and Essential Facilities as defined in Section 19.75.020	Yes	Yes	Yes	Yes	Yes
Industrial and Commercial Bldgs. (1 story and <5,000 sq. ft.)	Yes	No*	No	Yes	Yes
Industrial and Commercial Bldgs. (>5,000 sq. ft.)	Yes	Yes	No	Yes	Yes
Residential-Single Lots/Single Family Homes	Yes	No*	No	Yes	Yes
Residential Subdivisions (>9 Lots), and Residential Multi-Family Dwellings (4 or more units per acre)	Yes	Yes	No	Yes	Yes
Residential Subdivisions (<9 Lots), and Residential Multi-Family	Yes	No*	No	Yes	Yes

Dwellings (<4 units per acre)					
* Although a site-specific investigation is not required, the owner is required to file a disclosure notice prior to land-use approval					

### **19.75.060 Geologic hazard and engineering geology reports.**

This section describes requirements for site-specific geologic hazard studies and reports, where required according to Section 19.75.050, the Geologic Hazard maps and Chart 19.75.050:

- A. An engineering geology report that includes a geologic hazards investigation and assessment shall be prepared by a qualified engineering geologist, except as provided in Sections 19.75.060 (C) and (F), below. A "qualified engineering geologist" requires 1) an undergraduate or graduate degree in geology, engineering geology, or a related field with a strong emphasis in geologic coursework, from an accredited university; 2) at least three full years of experience in a responsible position in the field of engineering geology; and 3) per State law, after January 1, 2003, geologists practicing before the public must be licensed in Utah. The report shall be site-specific and shall identify all known or suspected potential geologic hazards, originating on-site or off-site, whether previously mapped or unmapped, that may affect the particular property. All reports shall be signed and stamped by the preparer and include the qualifications of the preparer.
- B. Fault rupture hazard reports shall contain all requirements as described in the document "Minimum Standards for Surface Fault Rupture Studies" published by Brighton, and incorporated by reference as Appendix A of this ordinance. Fault study reports shall be prepared, signed, and stamped by a qualified engineering geologist as described in Appendix A.
- C. Liquefaction analyses shall contain all requirements as stated in the document "Liquefaction: A Guide to Land Use Planning" published by Brighton, and incorporated by reference as Appendix B to this ordinance. Liquefaction analyses shall be prepared by a qualified professional geotechnical engineer licensed in the State of Utah, and shall include the professional engineer's original stamp and signature.
- D. Debris flow hazard studies and reports shall include test pits or trench logs (scaled 1 inch to 5 feet), include estimates of the number and frequency of past events and their thicknesses, volume and maximum clast sizes; and include estimates of the recurrence, depth, and impact forces anticipated in future events. While debris flow hazard analyses may require contributions from hydrologists and engineers, the debris flow report shall be under the control of, and prepared

by, a qualified engineering geologist, and shall include the geologist's qualifications to perform the study (such as their experience in performing similar studies).

- E. Landslide reports shall be prepared in accordance with the Utah Geological Survey's "Guidelines for Evaluating Landslide Hazards in Utah" (Hylland, 1996). Landslide reports shall be prepared, signed, and stamped by a qualified engineering geologist, and include the qualifications of the preparer. Slope stability or other analyses included in these reports shall include both static and dynamic conditions, and shall be prepared by a qualified professional geotechnical engineer licensed in the State of Utah, and shall include the professional engineer's original stamp and signature.
- F. Snow avalanche hazard reports shall be prepared in accordance with the document "Snow-Avalanche Hazard Analysis for Land Use Planning and Engineering" (Colorado Geological Survey Bulletin 49) or other appropriate references. Avalanche hazard reports must be prepared by an experienced avalanche expert, and shall include the avalanche expert's qualifications to perform the study (such as their experience in performing similar studies).
- G. Other geologic hazard or engineering geology reports shall be prepared in accordance with Utah Geological Survey Miscellaneous Publication M, "Guidelines for Preparing Engineering Geologic Reports in Utah." All reports shall be signed by the preparer and include the qualifications of the preparer. Generally, these reports must be prepared, signed, and stamped by a qualified engineering geologist licensed in the State of Utah. However, reports co-prepared by a professional engineer must include the professional engineer's original stamp and signature.
- H. All reports shall include, at a minimum:
  - 1. A 1:24,000-scale geologic map (with reference) showing the surface geology, bedrock geology (where exposed), bedding attitudes, faults or other structural features, and the locations of any geologic hazards;
  - 2. A detailed site map of the subject area showing any site-specific mapping performed as part of the geologic investigation, and including boundaries and features related to any geologic hazards, topography, and drainage. The site map must show the location and boundaries of the hazard(s), delineation of any recommended setback distances from hazard(s), and recommended location(s) for structures. Buildable and non-buildable areas shall be clearly identified. Scale shall be one inch equals two hundred feet or smaller.
  - 3. Trench logs and test pit logs (scale: 1 inch equals 5 feet, or smaller), boring logs (scale: 1 inch equals 5 feet, or smaller), aerial photographs, references with citations, and other supporting information, as applicable
  - 4. Conclusions that summarize the characteristics of the geologic hazards, and that address the potential effects of the geologic conditions and geologic hazards on the proposed development and occupants thereof in terms of risk and potential damage.

5. Specific recommendations for additional or more detailed studies, as may be required to understand or quantify the hazard, evaluate whether mitigation measures are required, and evaluate mitigation options.
  6. Specific recommendations for avoidance or mitigation of the effects of the hazard(s), consistent with the purposes set forth in Section 19.75.010. Design or performance criteria for engineered mitigation measures and all supporting calculations, analyses, modeling or other methods, and assumptions, shall be included in the report. Final design plans and specifications for engineered mitigation must be signed and stamped by a qualified professional geotechnical or structural engineer, as appropriate.
  7. Evidence on which recommendations and conclusions are based shall be clearly stated in the report.
- I. Additional or more detailed studies may be required, as recommended by the report or as determined by Brighton Geologist, to understand or quantify the hazard, or to evaluate whether mitigation measures recommended in the report are adequate.

#### **19.75.070 Review of reports—Approval procedure.**

- A. In order to fulfill the purposes of this chapter, the Planning and Development Services Division or the Planning Commission, as appropriate under Brighton's Development Standards, shall review any proposed land use which requires preparation of a geologic hazard report under this chapter to determine the possible risks to the safety of persons or property from geologic hazards.
- B. Prior to consideration of any such development by the Planning and Development Services Division and the Planning Commission, the geologic hazard report shall be submitted to Brighton Geologist for review and recommendation. Brighton Geologist may request the Utah Geological Survey, the U.S. Forest Service, and/or other experts to review the report (third-party review) and provide additional recommendations. Any cost Brighton must pay for such third-party reviews shall be paid by the applicant prior to Planning Commission or Planning and Development Services Division action. Brighton Geologist shall file a copy of the geologic hazard report in Brighton Geologist's Geologic Hazards Library, and another copy in the Planning and Development Services project file. A copy may also be forwarded to the Utah Geological Survey.
- C. Brighton Geologist and other retained experts in their review of the report, and the Planning Commission or Planning and Development Services Director in their consideration of the development, shall determine whether the development complies with all of the following standards:
  1. A suitable geologic hazard report has been prepared by a qualified professional as defined in Section 19.75.060.
  2. The proposed land use does not present an unreasonable risk to the safety of persons or property (including buildings, storm drains, public streets, utilities or

critical facilities, whether off-site or on-site), or to the aesthetics and natural functions of the landscape (e.g. slopes, streams or other waterways, drainage, wildlife habitat, etc., whether off-site or on-site) because of the presence of geologic hazards or because of modifications to the site due to the proposed land use;

3. At the Planning Commission's discretion, with advice from Brighton Geologist, the proposed land use may be approved if the applicant submits substantial evidence in the geologic hazard report that, using best available practices, the identified hazards can be mitigated to a level where the risk of human life and damage to property are reduced to an acceptable and reasonable level in a manner which has a minimum effect on the natural environment. Mitigation measures should consider, in their design, the intended aesthetic functions of other governing ordinances such as the Foothills and Canyons Overlay Zone (Ch. 19.72).
- D. Any area determined to contain geologic hazards to life or property shall not be approved for development unless the applicant demonstrates that the identified hazards or limitations can be overcome in such a manner as to minimize hazard to life or property. The applicant must include, with the geologic hazards report, an acceptable mitigation plan that defines how the identified hazards or limitations will be overcome in such a manner as to minimize hazard to life or property, as described in Section 19.75.070C(1), above, and without impacting or affecting off-site areas.
- E. Brighton Geologist may set other requirements as are necessary to overcome any geologic hazards and to ensure that the purposes of this chapter are met. These requirements may include, but are not limited to:
1. Additional or more detailed studies to understand or quantify the hazard or determine whether mitigation measures recommended in the report are adequate;
  2. Specific mitigation requirements; establishment of buildable and/or non-buildable areas; limitations on slope grading; and/or revegetation;
  3. Installation of monitoring equipment and seasonal monitoring of surface and subsurface geologic conditions, including groundwater levels;
  4. Other requirements such as time schedules for completion of the mitigation, phasing of development, etc.
- F. The Planning Commission or Planning and Development Services Director may set requirements necessary to reduce the risks from geologic hazards as a condition to the approval of any development which requires a geologic hazards report.

#### **19.75.080 Requirements in geologic hazard areas.**

##### **19.75.081 Active fault considerations.**

- A. No critical facility (excluding transportation lines or utilities, which by their nature may cross active faults) or structures designed for human occupancy shall be built astride an active fault. A fault study must be prepared as defined in Sections 19.75.030 and 19.75.060, and Appendix A, prior to final approval of the land use or building permits. If a fault is discovered in the excavation for such a structure, whether located within a Special Study Area or not, a special study, as described in Section 19.75.060 must be performed to determine if the fault is active. If the fault is determined to be active, the procedures set forth in Section 19.75.070 shall be followed. The fault study report shall establish a fault setback on either side of the fault following the requirements in Appendix A, within which no critical facilities or structures for human occupancy shall be placed.
- B. No structure designed for human occupancy shall be built on a fault scarp. Footing setbacks from a fault scarp shall meet the requirements in Appendix A or the requirements of the Building Code, whichever is more stringent. The Planning and Development Services Director may increase footing setback requirements where information from a geotechnical report indicates slope conditions warrant a greater setback distance.

##### **19.75.082 Liquefaction considerations.**

- A. Liquefaction analyses shall be performed for all critical facilities regardless of the mapped special study area designation for the site.
- B. For all structures for which a liquefaction analysis indicates that ground settlement may be anticipated, the project structural engineer shall provide documentation to Brighton Geologist that the building will be designed to accommodate the predicted ground settlements, in such a manner as to be protective of life safety during the design event.

##### **19.75.083 Avalanche considerations.**

- A. Development of structures for human occupancy is not permitted within an avalanche special study area, or in other areas where avalanche hazards may exist, unless a detailed avalanche hazard analysis is performed, as described in Section 19.75.060, by a qualified avalanche expert.
- B. If the avalanche analysis indicates that the site may be impacted by avalanches, the report shall delineate the following areas:
  - 1. A "red zone" of high avalanche potential [return period of twenty-five years or less, and/or impact pressures over six hundred pounds per square foot (psf)] within which critical facilities or structures for human occupancy are not permitted;

2. A "blue zone" (return period between twenty-five and three hundred years, and impact pressures less than six hundred psf) within which critical facilities or structures for human occupancy shall only be permitted when at least one of the following requirements has been met:
  - a. The structure is designed to incorporate direct protection measures that address the estimated impact forces (flowing snow/debris and powder blast loading). The estimated impact forces shall be calculated by the avalanche expert. The structure shall be designed by, and the plans stamped by, a qualified structural engineer licensed in the State of Utah; or
  - b. Appropriate engineering controls (i.e. deflection structures, snow retention nets, dams, etc.) are designed and installed to mitigate the avalanche hazard. Design or performance criteria for engineered mitigation measures (including estimated impact forces, flow heights, location and dimensions of the mitigation structures) and all supporting modeling or other analyses, calculations, and assumptions, shall be calculated by the avalanche expert and included in the report. Final design plans and specifications for engineered mitigation must be signed and stamped by a qualified professional geotechnical or structural engineer, as appropriate, licensed in the State of Utah.

#### **19.75.090 Disclosure.**

#### **19.75.091 Disclosure when a geologic hazards report is required.**

Whenever a geologic hazards report is required under this chapter, the owner of the parcel shall record a restrictive covenant running with the land in a form satisfactory to Brighton prior to the approval of any development or subdivision of such parcel. Disclosure will include signing a Disclosure and Acknowledgment Form provided by Brighton, which will include the following:

- A. Notice that the parcel is located within a Geologic Hazard Special Study Area as shown on the geologic hazard map or otherwise defined in Section 19.75.030;
- B. Notice that a geologic hazards report was prepared and is available for public inspection in Brighton Geologist's Geologic Hazards Library;
- C. Where geologic hazards and related setbacks are delineated in subdivisions and PUDs, the owner shall also place additional notification on the plat stating the above information, prior to final approval of the plat.

#### **19.75.092 Disclosure when a geologic hazards report is not required.**

Whenever a parcel to be developed is located within a Geologic Hazard Special Study Area but a geologic hazards report is not required under this chapter (such as but not limited to, a single-family home located in a moderate liquefaction potential area), notice that the parcel is located within such area(s) shall be recorded by the land owner



by signing a Disclosure and Acknowledgment Form provided by Brighton, prior to the approval of any such development.

#### **19.75.100 Warning and disclaimer.**

The geologic hazards ordinance codified in this chapter and geologic hazard maps represent only those hazardous areas known to Brighton, and should not be construed to include all possible potential hazard areas. The geologic hazards ordinance and the geologic hazard maps may be amended as new information becomes available pursuant to procedures set forth in Chapter 19.90. The provisions of this chapter do not in any way assure or imply that areas outside its boundaries will be free from the possible adverse effects of geologic hazards. This chapter shall not create liability on the part of Brighton, any officer or employee thereof for any damages from geologic hazards that result from reliance on this chapter or any administrative requirement or decision lawfully made thereunder.

#### **19.75.110 Change of use.**

No change in use which results in the conversion of a building or structure from one not used for human occupancy to one that is so used shall be permitted unless the building or structure complies with the provisions of this chapter.

#### **19.75.120 Conflicting regulations.**

In cases of conflict between the provisions of existing zoning classifications, building code, subdivision ordinance, or any other ordinance of Brighton and the geologic hazards ordinance codified in this chapter, the most restrictive provision shall apply.

### **Chapter 19.76 SUPPLEMENTARY AND QUALIFYING REGULATIONS** **Sections:**

[19.76.010 Effect of chapter provisions.](#)

[19.76.020 Occupancy permit.](#)

[19.76.030 Uses not listed—Administrative determination.](#)

[19.76.035 Appeal of planning commission decision.](#)

[19.76.040 Dwellings to be on lots.](#)

[19.76.050 Lots in separate ownership.](#)

[19.76.060 Separately owned lots—Reduced yards.](#)

[19.76.065 Public use—Reduced lot area and yards.](#)

[19.76.080 Lots and buildings on private rights-of-way.](#)

[19.76.090 Sale of lots below minimum width and area.](#)

[19.76.100 Sale of space needed to meet requirements.](#)  
[19.76.110 Yard space for one building only.](#)  
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[19.76.160 Intersecting streets and clear visibility.](#)  
[19.76.170 Height limitations—Buildings less than one story.](#)  
[19.76.190 Height limitations—Exceptions.](#)  
[19.76.200 Additional height allowed when.](#)  
[19.76.210 Off-site improvements.](#)  
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[19.76.240 Animal and fowl restrictions.](#)  
[19.76.250 Circuses, carnivals and Christmas tree sales.](#)  
[19.76.260 Day-care and preschool center—Special conditions.](#)  
[19.76.270 Overpressure area.](#)  
[19.76.280 Commercial renting of dwellings prohibited.](#)  
[19.76.290 Single-family or two-family dwelling—Standards.](#)  
[19.76.300 Oil and gas transmission pipeline notification.](#)  
[19.76.310 Oil and gas transmission pipeline map modification.](#)

**19.76.010 Effect of chapter provisions.**

The regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this title.

**19.76.020 Occupancy permit.**

- A. Land, buildings and premises in any zone shall hereafter be used only for the purpose listed in this title as permitted in that zone, and in accordance with the regulations established in this title in that zone.
- B. The permit of occupancy shall be issued by the chief building inspector and the development services division director to the effect that the use and/or building or premises conforms to the provisions of this title and related ordinances prior to the occupancy of any building hereafter erected, enlarged or structurally altered, or where any vacant land is hereafter proposed to be occupied or used, except for permitted agricultural uses.

- C. Such a permit shall also be issued whenever the character or use of any building or land is proposed to be changed from one use to another use.
- D. Upon written request from the owner, such a permit shall also be issued covering any lawful use of a building or premises existing on the effective date of the amendment codified herein, including nonconforming buildings and uses.

**19.76.030 Uses not listed—Administrative determination.**

Determination as to the classification of uses not specifically listed in this title shall be made by the planning and development services division director and shall be subject to appeal to the planning commission. Such appeal shall be filed in writing within ten days after written notification to applicant of the planning and development services division director's determination. The procedure shall be as follows:

- A. Written Request. A written request for such a determination shall be filed with the planning and development services division director. The request shall include a detailed description of the proposed use and such other information as may be required.
- B. Investigation. The planning and development services division director shall thereupon make such investigations as are deemed necessary to compare the nature and characteristics of the proposed use with those of uses specifically listed in this title, and to make a determination of its classification.
- C. Determination. The determination of the planning and development services division director shall be rendered in writing within thirty days unless an extension is granted by the planning commission. The determination shall state the zone classification in which the proposed use will be permitted as well as the findings which established that such use is of the same character as uses permitted in that zone classification. Upon making this decision, the planning and development services division director shall forthwith notify the applicant, the planning commission and the development services division.
- D. Effect. The determination and all information pertaining thereto shall become a permanent public record in the office of the planning and development services division director. Such use shall thereafter become a permitted or conditional use in the class of district specified in the determination, and shall have the same status as a permitted or conditional use specifically named in the regulations for the zone classification.

**19.76.035 Appeal of planning commission decision.**

Unless otherwise specifically provided for in this title, any person shall have the right to appeal to the land use hearing officer a decision of the planning commission rendered under this title. Appeals shall follow the procedure set forth in Section 19.92.050.

**19.76.040 Dwellings to be on lots.**

Every dwelling shall be located and maintained on a lot, as defined in this title.

**19.76.050 Lots in separate ownership.**

The requirements of this title as to minimum lot area or lot width shall not be construed to prevent the use for a single-family dwelling of any lot or parcel of land, provided that such lot or parcel of land is located in a zone which permits single-family dwellings, and is a legally divided lot held in separate ownership at the time such requirements became effective for such lot or parcel of land.

**19.76.060 Separately owned lots—Reduced yards.**

On any lot under a separate ownership from adjacent lots and of record at the time of passage of the ordinance codified herein, and such lot having a smaller width than required for the zone in which it is located, the width of each of the side yards for a dwelling may be reduced to a width which is not less than the same percentage of the width of the lot as the required side yard would be of the required lot width; provided that, on interior lots, the smaller of the two yards shall be in no case less than five feet, or the larger less than eight feet; and for corner lots, the side yard on the side street shall be in no case less than ten feet or the other side yard be less than five feet.

**19.76.065 Public use—Reduced lot area and yards.**

The requirements of this title as to minimum lot area and minimum yards may be reduced by the planning commission for a public use. The planning commission shall not authorize a reduction in the lot area or yard requirements unless the evidence presented is such as to establish that the reduction will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

**19.76.080 Lots and buildings on private rights-of-way.**

Except where the requirements of this section are reduced by permit of the land use hearing officer, the minimum area for any lot fronting on a private right-of-way, at least twenty feet wide, shall be one-half acre, and the minimum distance from the center of the right-of-way to the front line of the building shall be fifty feet; except that property that cannot be subdivided as outlined in the subdivision ordinance may be developed on a private street or right-of-way in any R zone upon approval of the development services division director. Such approval shall be governed by the official policies regulating such development, as adopted by the planning commission and on file at the planning commission office.

**19.76.090 Sale of lots below minimum width and area.**

No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a large parcel of land for the purpose, whether immediate or future, of building or development as a lot, except by permit of the land use hearing officer.

**19.76.100 Sale of space needed to meet requirements.**

No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for a lot or building may be sold or leased away from such lot or building.

**19.76.110 Yard space for one building only.**

No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established. This section shall be so construed to mean only one main building may be permitted on one lot, unless otherwise provided in this title.

**19.76.130 Accessory buildings—Area of coverage.**

No accessory building or group of accessory buildings in any residential zone shall cover more than twenty-five percent of the rear yard.

**19.76.140 Private garage or carport—Reduced yards.**

On a lot where a private garage or carport, containing at least one parking space of the two required parking spaces per dwelling unit for a single-family dwelling or duplex, has the minimum side yard required for such dwelling, the width of the other side yard may be reduced to the minimum required side yard. Side yards adjacent to a street on a corner lot may not be reduced. On any lot where such garage or carport has such side yard, the rear yard of the single-family dwelling or duplex may be reduced to fifteen feet, provided the garage or carport also has a rear yard of at least fifteen feet.

**19.76.160 Intersecting streets and clear visibility.**

In all zones which require a front yard, no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points forty feet from the intersection of the street lines, except a reasonable number of trees pruned high enough to permit unobstructed vision to automobile drivers, and pumps at gasoline service stations.

**19.76.170 Height limitations—Buildings less than one story.**

No building shall be erected to a height less than one story above grade.

**19.76.190 Height limitations—Exceptions.**

Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures, may be erected above the height limits prescribed in this title, but no space above the height limit shall be allowed for the purpose of providing additional floor space, and no heights are permitted above the maximum allowed under airport height provisions.

**19.76.200 Additional height allowed when.**

Public or semipublic utility buildings, when authorized in a zone, may be erected to a height not exceeding seventy-five feet if the building is set back from each otherwise established building line at least one foot for each additional foot of building height above the normal height limit required for the zone in which the building is erected.

**19.76.210 Off-site improvements.**

- A. Off-Site Improvements Required. The applicant for a building or conditional use permit for all dwellings, commercial or industrial uses, and all other business and public and quasi-public uses shall provide curb, gutter and sidewalk along the entire property line which abuts any public road or street in cases where it does not exist at Brighton standards. Vehicular entrances to the property shall be provided as required in Section 14.12.110. Height, location, structural specifications, maximum and minimum cut radii and minimum roadway approach angles to the centerline of the street are subject to the approval of the agency concerned.
- B. Fee in Lieu of Improvements.
  - 1. Where conditions exist which make it unfeasible or impractical to install such curb, gutter and sidewalk, the planning commission may require the applicant to pay to Brighton a fee equal to the estimated cost of such improvements, as determined by the director of development services. Upon payment of such fee by the developer, Brighton shall assume the responsibility for future installation of such improvements.
  - 2. The auditor shall place such fees in the special account established in Section 18.24.190 of this code, and shall credit to such account a proportioned share of interest earned from investment of Brighton moneys. Records relating to identification of properties for which fees have been collected, fee amounts collected for such properties, and money transfer requests shall be the responsibility of the development services division.

C. Exceptions.

1. The planning commission may grant exception to installation of the sidewalk in industrial areas where the planning commission determines that the sidewalk is not necessary to serve the public need, and the elimination of the sidewalk does not jeopardize the public health, safety or welfare.
2. The planning commission may grant exception to installation of curb, gutter and sidewalk in rural or estate areas where topographic or other exceptional conditions exist, provided that the public health, safety and welfare is preserved.

**19.76.220 Water and sewage facilities.**

In all cases where a proposed building or proposed use will involve the use of sewage facilities, and a sewer, as defined in Brighton sewer ordinance, is not available, and all cases where a proposed supply of piped water under pressure is not available, the sewage disposal and the domestic water supply shall comply with requirements of Brighton board of health, and the application for a building permit shall be accompanied by a certificate of approval from the board of health.

**19.76.250 Circuses, carnivals and Christmas tree sales.**

- A. The development services division director may issue a temporary use permit for a circus and/or carnival or other amusement enterprise of a similar nature, transient in nature, or Christmas tree sales, providing he shall find that the use will not conflict with the uses in the neighborhood of the subject property. To determine the compatibility of uses, the development services division director may call a public hearing. Request for such permit shall be submitted in writing.
- B. In issuing a permit, the development services division director may:
  1. Stipulate the length of time the permit may remain valid;
  2. Stipulate the hours of operation of the use;
  3. Stipulate other regulations which are necessary for the public welfare.

**19.76.260 Day-care and preschool center—Special conditions.**

A day care/preschool center, as defined in Section 19.04.160 of this title, shall be subject to the following conditions:

- A. Must be compatible with existing and proposed land uses in the vicinity;
- B. Receive recommendation of the Utah State Department of Social Services;
- C. Provide required parking spaces on the site and an adequate pickup and delivery area;
- D. New construction must be compatible in design and scale of building with existing development in the area;

- E. Site must have frontage on a street with an existing or proposed right-of-way of eighty feet or greater, as identified on the road widening and improvement map attached to the ordinance codified herein and available in the planning commission office.

**19.76.270 Overpressure area.**

Development in the overpressure area as defined in Section 15.14.010 and shown on the special development standards areas map shall comply with Sections 15.14.030, 15.14.040, 15.14.050 and this section. The special development standards areas map is available in the development services division office during regular office hours.

**19.76.280 Commercial renting of dwellings prohibited.**

It shall be deemed a commercial use and unlawful to rent or lease any dwelling or portion thereof located within any forestry, residential, agricultural or foothill agricultural zones listed in Section 19.06.010 for lodging or accommodation purposes for a period less than thirty consecutive days except as specifically allowed in the FM-10, FM-20, FR-0.5, FR-1, FR-20 zones.

**19.76.290 Single-family or two-family dwelling—Standards.**

Any detached single-family or two-family dwelling located on an individual lot outside of a mobile home park or mobile home subdivision must meet the off-street parking requirements in Chapter 19.80 and the following standards in addition to any others required by law except as provided in subsection I of this section:

- A. The dwelling unit must meet applicable building codes or, if it is a manufactured home, it must be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, and must have been issued an insignia and approved by the U.S. Department of Housing and Urban Development, and must not have been altered in violation of such codes. A used manufactured home must be inspected by Brighton building official or his designated representative prior to placement on a lot to insure it has not been altered in violation of such codes.
- B. The dwelling must be taxed as real property. If the dwelling is a manufactured home, an affidavit must be filed with the State Tax Commission pursuant to Utah Code Annotated 59-2-602.
- C. The dwelling must be permanently connected to and approved for all required utilities.
- D. The dwelling must provide a minimum of seventy-two square feet (per dwelling unit) of enclosed storage, with a minimum height of six feet, located in the basement or garage area or in an accessory storage structure. Such structure shall conform to all applicable building codes.



- E. The dwelling must be attached to a site-built permanent foundation which meets the Uniform Building Code or, if the dwelling is a manufactured home, the installation must meet the ICBO Guidelines for Manufactured Housing Installations, including any successors to these standards, and the space beneath the structure must be enclosed at the perimeter of the dwelling in accordance with such ICBO Guidelines, and constructed of materials that are weather-resistant and aesthetically consistent with concrete or masonry type foundation materials. At each exit door there must be a landing that is a minimum of thirty-six inches by thirty-six inches and that is constructed to meet the requirements of the Uniform Building Code. All manufactured home running gear, tongues, axles and wheels must be removed at the time of installation.
- F. At least sixty percent of the roof of the dwelling must be pitched at a minimum of two and one-half to twelve (2.5:12) and shall have a roof surface of wood shakes, asphalt, composition, wood shingles, concrete, fiberglass or metal tiles or slate or built-up gravel materials.
- G. The dwelling shall have exterior siding material consisting of wood, masonry, concrete, stucco, masonite, or metal or vinyl lap, or any material meeting the Uniform Building Code or materials of like appearance approved by the development services director. The roof overhang must not be less than six inches, including rain gutters which may account for up to four inches of overhang, measured from the vertical side of the dwelling. The roof overhang requirement shall not apply to areas above porches, alcoves and other appendages which together do not exceed twenty-five percent of the length of the dwelling. The roof overhang may be reduced to two inches on the side of the dwelling facing the rear yard except on corner lots.
- H. The width of the dwelling shall be at least twenty feet at the narrowest part of its first story for a length of at least twenty feet exclusive of any garage area. The width shall be considered the lesser of the two primary dimensions. Factory-built or manufactured homes shall be multiple transportable sections at least ten feet wide unless transportable in three or more sections, in which case only one section need be ten feet wide.
- I. The development services director may approve deviations from one or more of the developmental or architectural standards provided in subsections E through H of this section on the basis of a finding that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with existing structures in the vicinity. The determination of the development services director may be appealed to the land use hearing officer pursuant to the provisions of subsection C of Section 19.92.070.
- J. Except as limited by subsection K of this section, use of one manufactured home as a dwelling on a parcel of land located outside of a mobile home park or mobile home subdivision prior to the initiation by Brighton of the enactment of the ordinance codified in this section, which use does not meet the requirements set forth in subsections A through H of this section shall be considered as a

nonconforming dwelling though not previously approved by Brighton if such manufactured home and the parcel on which it is located comes into compliance by December 31, 1990, with all development standards which would have been applicable to a single-family dwelling located on such parcel at the time the manufactured home was first used on the parcel as a dwelling. Development standards shall include subdivision, zoning, flood control, outside electrical hookup, applicable fees, health, and fire department requirements for single-family dwellings on such parcel.

- K. The use of a manufactured home as a dwelling located on an individual parcel or lot outside of a mobile home park or mobile home subdivision shall terminate on December 31, 1990, unless the owner opts to have the manufactured home taxed as real property on or before such date by filing an affidavit with the State Tax Commission pursuant to Utah Code Annotated 59-2-602 and meeting the requirements of that statute for having the manufactured home taxed as real property.
- L. Replacement of an existing nonconforming manufactured home on a lot outside a mobile home park or mobile home subdivision shall comply with all requirements herein.

#### **19.76.300 Oil and gas transmission pipeline notification.**

- A. A notification area is hereby established for any parcels within six hundred sixty feet from the mapped centerline of an oil or gas transmission pipeline, as indicated by Brighton's pipeline protection map, a geographic information system (GIS) based map. Brighton makes no warranty as to the accuracy of this map, which reflects information provided by pipeline operators.
- B. At the time of application for a development permit Brighton shall notify the applicant if the proposed development is within the notification area and provide contact information for the pipeline operator(s) in the area and for Utah's one-call program. It is the obligation of pipeline operators to correct or update their information with Brighton.
- C. If any proposed development is within the notification area, the applicant for a development permit shall contact the pipeline operators) and provide them with a copy of the application and timely notice of the first scheduled public hearing on the application, if there is one. The applicant shall file proof of this notification with Brighton planning and development division before any development permit may be issued. Proof of notification shall be kept on file with the application. Once the development permit is issued, it is the responsibility of the applicant to consider any comments and recommendations posed by the pipeline operator(s) to ensure no pipelines are damaged during construction of the approved project.
- D. Subdivision plats within two hundred feet from the centerline of a pipeline as shown on Brighton's pipeline protection map shall show the pipeline location on the plat. The location of all known oil or gas transmission lines and related easements shall also be shown on all zoning, building and record plat maps.

#### **19.76.310 Oil and gas transmission pipeline map modification.**

- A. It is the obligation of pipeline operators to correct or update Brighton's pipeline protection map, and they shall do this by filing an application to modify the map. The application shall be presented to the development services director or designee for review and approval. Complete application must include:
1. An explanation from the pipeline operator(s) of how the corrected or proposed location was determined for each transmission pipeline; and
  2. Electronic GIS data or detailed drawings delineating the correct or proposed location.

### **Chapter 19.77 WATER EFFICIENT LANDSCAPE DESIGN AND DEVELOPMENT STANDARDS**

#### **Sections:**

[19.77.010 Purpose and intent.](#)

[19.77.020 Scope and applicability.](#)

[19.77.030 Promotion of maximum water efficiency.](#)

[19.77.040 Landscape design standards and guidelines.](#)

[19.77.050 Landscape yards or setbacks and buffer areas.](#)

[19.77.060 Parking lot landscaping.](#)

[19.77.070 Screening of service and mechanical equipment.](#)

[19.77.080 Functional and aesthetic enhancements.](#)

[19.77.090 Landscaping of detention/retention basins and ponds.](#)

[19.77.100 Landscape plan submittal requirements.](#)

[19.77.110 Landscape plan package acceptance.](#)

[19.77.120 Installation of landscape improvements.](#)

[19.77.130 Construction inspection and compliance requirements.](#)

[19.77.140 Post-construction verification of compliance.](#)

[19.77.150 Certificate of substantial completion.](#)

[19.77.160 Long-term viability of established landscapes.](#)

[19.77.170 Completion of and submittal of water performance audit.](#)

[19.77.180 Definitions.](#)

#### **19.77.010 Purpose and intent.**

- A. The purpose of this chapter is to establish standards for the protection and enhancement of Brighton's environmental, economic, recreational, and aesthetic resources. The landscape design and development standards set forth in this chapter are intended to promote the following:
1. More efficient use of water resources for landscape irrigation purposes;
  2. Preservation and enhancement of Brighton's environmental and aesthetic character;
  3. Enhancement of land use compatibility and promotion of design continuity between adjacent land uses;
  4. Reduction of energy consumption through the prudent placement of plant materials;
  5. Improved management of stormwater runoff;
  6. Reduction in the absorption and re-generation of heat from paved vehicular parking areas and other impervious surfaces;
  7. Separation of vehicular and pedestrian functions within on-site vehicular circulation and parking areas;
  8. Spatial and visual separation of parked vehicles from public view and adjacent vehicular travel ways;
  9. Reduction of vehicular headlight glare and intrusive artificial light onto area residences;
  10. Reduction of development-related environmental impacts through improved management of erosion, noise, dust, air pollution and glare;
  11. Re-introduction of native and low water use plant species into the developed environment;
  12. Reduction of landscape maintenance responsibilities and costs.

#### **19.77.020 Scope and applicability.**

Homeowner-provided landscape improvements within the front, side and rear yards of single- and two-family dwellings are exempt from the requirements of this chapter.

- A. Newly Established Land Uses. Except as noted above, these landscape standards shall be applied to all new developments in the unincorporated area of Brighton. Residential development projects such as but not limited to planned unit developments, condominiums, multifamily residential developments and residential subdivision projects in which improvements such as but not limited to the dwelling units, common area, recreational amenities and infrastructure improvements are provided by the developer shall be landscaped in accordance with the requirements of this chapter.

- B. Existing Developments. Land use developments in existence at the effective date of this chapter shall, to the maximum extent feasible, be brought into compliance with the chapter's provisions if:
  - 1. The gross floor area of improvements existing on the property at the effective date of this chapter are changed, modified, or expanded by more than twenty percent. Compliance under the noted circumstances applies whether the changes, modifications, or expansions occur in a single event or in incremental stages.
- C. Off-Street Parking.
  - 1. New Developments. Off-street parking facilities for all new developments shall be landscaped in accordance with the requirements of this chapter. These include:
    - a. Surface or at-grade parking areas;
    - b. The exterior perimeter of parking structures at all levels, as well as the open-air top parking level of such structures.
  - 2. Existing Parking Areas. Off-street parking areas in existence on the effective date of this chapter shall be brought into compliance with the provisions of the chapter as noted below:
    - a. Expansion by Fifty Percent or Less. When an existing off-street parking area is expanded by fifty percent or less the newly established expansion area shall be brought into compliance with both the interior and exterior/perimeter landscape requirements of this chapter.
    - b. Expansion by More Than Fifty Percent. When an existing off-street parking area is expanded by more than fifty percent, the entire expansion area shall be brought into compliance with both the interior and exterior/perimeter landscape standards of this section. The pre-existing parking area, while not required to be retroactively brought into compliance with this section's interior parking area landscape requirements, shall be made to conform to exterior/perimeter area landscape standards.
    - c. Repeated Expansions. Repeated expansions of a parking lot area over a period of time commencing with the effective date of this chapter shall be combined in determining whether the fifty percent threshold has been reached.
- D. Exemptions. The provisions of this chapter do not apply to the following:
  - 1. The interior undercover portions of parking structures;
  - 2. The interior undercover portions of carports containing no more than ten parking spaces;
  - 3. The interior display areas of vehicle and equipment sales lots;
  - 4. The interior areas of vehicle and equipment storage lots;
  - 5. Properties listed on the national or state historic registers.

In addition, areas dedicated and used for the following specific purposes are exempt from the landscape water allowance limitations of this chapter:

- a. Sports fields;
- b. Turf areas within public parks;
- c. Golf courses;
- d. Cemeteries.

Although exempt from landscape water allowance limitations, all other provisions of this chapter shall apply. In particular, landscaping shall be provided in the interior and perimeter areas of off-street parking facilities, adjacent to buildings, and along walkways.

#### **19.77.030 Promotion of maximum water efficiency.**

- A. Establishment and Maintenance of a Site-Specific Landscape Water Allowance. So as to assure more efficient water consumption in the establishment and long-term maintenance of site landscape improvements, an annual landscape water allowance shall be established and maintained for each property improved as set forth in this chapter.

The landscape water allowance shall be calculated using the following equation:

Landscape Water Allowance =  $ET_0 \times 1.0 \times 0.62 \times A$  where landscape water allowance is in gallons per year.

$ET_0$  = Reference evapotranspiration in inches per year.

1.0 =  $ET_0$  adjustment factor, one hundred percent of turf grass  $ET_0$  (water year adjustment factor).

0.62 = Conversion factor (to gallons per square feet).

A = Total irrigated landscape area in square feet.

The  $ET_0$  or reference evapotranspiration for Brighton is 31.18 inches per year. Converting this figure so that a landscape water allowance can be expressed in gallons per year requires the use of the conversion factor to obtain an equivalent amount in gallons per square feet (19.33). An  $ET_0$  adjustment factor of one is used in order to accommodate the use of turf under circumstances that promote maximum water efficiency.

Acceptable water efficiency shall be deemed to have been achieved when the approved landscape plan indicates a landscape water allowance of no more than fifteen gallons per square foot average for the entire landscaped area of the site. Multiplying this figure by the total irrigated landscape area in square feet yields the annual water budget for landscape use for the property.

- B. Introduction and Use of Native and Other Drought-Tolerant Plants. In order to promote maximum water conservation, not less than eighty percent of the trees and shrubs used on a site shall be water conserving species capable of withstanding dry

conditions once established. Native plants shall be used to the maximum extent feasible. Drought-tolerant grass varieties shall be used in areas planted in turf or lawn. Lists of plants that satisfy these requirements and that are available locally may be obtained from the director.

C. Plant Establishment and Arrangement on the Basis of Water Consumption. Among the many ways in which plants may be distinguished from one another is categorization on the basis of water use. Establishment and arrangement of plants on a site according to the water needs of those plants is commonly referred to as hydrozone management. Hydrozone management is required by this chapter and shall be implemented through the use of the following:

1. Plants with similar water needs shall be grouped together as much as possible.
2. Areas landscaped with high water use plants shall be, whenever possible, separated from those with low and very low water use by moderate water use landscape zones.
3. For projects located at the interface between urban areas and natural (nonirrigated) open space, drought-tolerant plants that will blend with the native vegetation shall be selected. Plants that tend to accumulate excessive amount of dead wood or debris are to be avoided. Plants with low fuel volume or high moisture content are preferred. Every effort is to be taken to minimize fire hazards. Lists of plants that satisfy these requirements and that are available locally may be obtained from the director.
4. Areas with slopes greater than thirty percent shall be landscaped with deep-rooting, water-conserving plants for erosion control and soil stabilization.
5. Park strips and other landscaped areas less than ten feet wide shall be landscaped with water-conserving plants.

D. Irrigation System Requirements.

1. Designer Qualifications. All sprinkler irrigation systems shall be designed by a qualified professional who is licensed under Utah Code Title 58 or by a person who is exempt from professional licensure requirements for the scope of work performed.
2. Design Standards. Irrigation design standards applicable to this chapter shall be as outlined in the latest version of the minimum standards for efficient landscape irrigation system design and installation prepared by the Utah Irrigation Association, subject to the following modifications and additions:
  - a. Pressure Regulation. A pressure regulating valve shall be installed and maintained if the static service pressure exceeds eighty pounds per square inch (psi).
  - b. Automatic Controller. All irrigation systems shall include an electric automatic controller with multiple programs, multiple repeat cycle capabilities so as to reduce runoff on slopes and soils with slow infiltration rates, and a flexible calendar program. All controllers shall be capable of utilizing an automatic

rain shut-off device, and the ability to adjust run times based on a percentage of maximum ET<sub>0</sub>.

- c. Slope Adjustments. On slopes exceeding thirty percent, the irrigation system shall consist of low precipitation rate rotors or spray heads, drip emitters, or bubblers with a maximum precipitation rate of 0.85 inches per hour and adjusted irrigation cycle times to eliminate runoff.
- d. Irrigation Zones and Use. Each zone shall irrigate a landscape with similar site, slope and soil conditions and plant materials with similar watering needs. Turf and nonturf areas shall be irrigated on separate zones. Drip emitters and sprinklers shall be placed on separate zones.
- e. Tree Irrigation. Drip emitters or bubblers shall be provided for each tree not planted in a turf area. Irrigation in the vicinity shall be factored in to prevent under or over-watering and to ensure deep root growth. Bubblers shall not exceed one and one-half gallons per minute per device. Bubblers for trees shall be placed on a separate valve as warranted by tree species and area conditions.
- f. Turf Zones. Sprinklers shall have matched precipitation rates with each zone.
- g. Elevation Adjustments. Check valves shall be required where elevation differences will cause low-head drainage. Pressure regulating valves and pressure compensating heads and drip emitters with a pressure regulating device shall be required where a significant variation in water pressure will occur within the irrigation system due to elevation differences.
- h. Requirements for Drip Irrigation. Drip irrigation lines shall have filters and automatic end flush valves and be protected by organic or rock mulch.
- i. Automatic Controller Zones. Zones with spray or stream sprinklers shall not be scheduled to operate between the hours of ten a.m. to seven p.m. so as to reduce water loss from wind and evaporation. Drip irrigation systems are subject to no such operational constraints.
- j. Operational Efficiency. The minimum efficiency required for irrigation systems established in accordance with the requirements of this chapter is as follows:
  - i. The distribution efficiency for all fixed spray systems shall be sixty percent.
  - ii. The distribution efficiency for all rotor systems shall be seventy percent.
- k. Scheduling of System Operations. A schedule shall be developed which allows for plant material to be established. This shall have a maximum two-year time period. Once established, a revised schedule shall be developed for maintenance of the plant material. The schedule presently in effect shall be posted at the controller. The schedule shall reflect an application rate which achieves optimum system efficiency, a minimum one-hour time interval between all applications, and provisions against irrigation during restricted hours.



#### **19.77.040 Landscape design standards and guidelines.**

- A. Standards Applicable to All Developments. Required site landscape improvements shall be provided in accordance with the standards and design guidelines set forth in this chapter. The standards set forth herein are numerically measurable so as to readily facilitate the preparation, review and approval of landscape plan submittals and the subsequent verification of compliance with the requirements of the chapter. Design guidelines, though not precisely measurable, are intended to clarify the principles associated with specified standards, provide guidance for the review and approval of submitted landscape plans, and provide flexibility for design professionals who wish to propose alternative compliance approaches.
- B. Retention of Significant Natural Features. Features that are unique to a property, such as but not limited to that property's natural topography, existing vegetation, or riparian features shall be taken into consideration in the planning and design of landscape improvements for that property. Priority is to be given to the preservation or protection of existing natural areas, particularly where mature or specimen trees or wooded riparian areas are a part of a proposed development site. The proposed locations of streets, buildings and lots shall, as much as possible, minimize disturbance to significant existing trees.
- C. Tree Preservation, Removal and Replacement.
  - 1. All healthy trees having a caliper of four inches in size or larger shall be preserved to the maximum extent feasible. Preserved trees shall be credited to the satisfaction of replacement trees on a three to one caliper-to-caliper basis.
  - 2. Preserved trees shall be credited toward the satisfaction of the tree planting requirements of this chapter.
  - 3. Where existing trees are to be protected, the following standards shall apply:
    - a. A fenced tree protection zone shall be established around each tree or cluster of trees to be retained. The perimeter of this zone, which shall coincide with the drip line of the tree or trees to be protected, shall be clearly marked with high-visibility materials at a minimum height of four feet.
    - b. The storage or movement of equipment, material, debris or fill is prohibited within the fenced tree protection zone so as to minimize soil compaction.
    - c. The cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil or any other material harmful to the life of a tree is prohibited within the drip line of any protected tree or group of trees.
    - d. No cut or fill is permitted within the drip line of any protected existing tree or group of trees unless a qualified arborist, forester or landscape architect has evaluated and approved the disturbance.
    - e. All protected existing trees shall be pruned as specified by a qualified arborist or forester.

- f. No damaging attachment, wires, signs or permits may be fastened to any protected tree.
  - g. Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be "ribboned off," rather than erecting protective fencing around each tree as required above. This may be accomplished by placing metal t-post stakes a maximum of fifty feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.
4. The removal of trees is allowed under the following circumstances:
- a. Where trees have naturally fallen or are determined by a licensed arborist to be dead or dying.
  - b. Where trees have been diagnosed by a qualified arborist as unhealthy beyond reasonable rehabilitation.
  - c. Where trees are determined to be potentially harmful to the public health, safety or welfare.
  - d. Where it has been determined by Brighton that tree removal is necessary to restore clear visibility at driveways and intersections.
  - e. Where the preservation of trees would prevent reasonable site grading to accommodate a functional arrangement of buildings and related improvements on the property. Written documentation of the above is required prior to the removal of any tree.
5. Trees having a caliper of four inches in size or greater which are removed shall be replaced on the development site by trees of no less than two-inch caliper in size. The required replacement ratio shall be one tree for every two caliper inches (cumulative) of trees removed. Replacement trees shall not be credited toward the satisfaction of the tree planting requirements of this chapter but shall be in addition to that otherwise specified.
- D. Exposure to Sun and Wind. Plant selection and placement shall recognize the importance of energy conservation. Deciduous trees which are sun tolerant shall be planted on the south and west sides of buildings so as to provide shade from summer sun while allowing winter sun to radiate into buildings. Shade-tolerant plants and evergreen trees shall be planted on the north to northwest sides of buildings in order to reduce the chilling effects of winter winds.
- E. New Plantings. The measurements and specifications for all live plants used to fulfill the requirements of this chapter shall be as set forth in the American Standard for Nursery Stock (ANSI Z60.1-204) as published and periodically amended by the American Nursery and Landscape Association. The following are minimums in relation to those standards. Nothing in this chapter shall be interpreted to prohibit the provision of landscape improvements in excess of these minimums.
1. Plant Quality. Required plant materials shall be nursery or field grown, unless otherwise approved, and shall be healthy, well-branched vigorous stock with a growth habit normal to the species and variety, free from defects decay,

disfiguring roots, sun-scald, injuries, abrasions of the bark, plant diseases, insect pest eggs, borers and all forms of infestations or objectionable disfigurements of diseases, insects and injuries.

2. **Plant Coverage and Growth Rate.** The quantity and size of materials planted shall be sufficient to attain a percentage of coverage of seventy-five percent of organically planted areas within three years of initial planting.
3. **Species Diversity.** A variety of plant species shall be utilized in all site landscaping. No one species may make up more than twenty-five percent of the total nonturf plant materials within the landscaped area. In order to prevent uniform insect or disease susceptibility and to stem the untimely degeneration or premature deterioration of trees planted or retained on a development site or in the adjacent area, species diversity is required. The following minimum requirements shall apply.

Total Number of Trees on Site	Maximum Percent of Any One Species
10—19	50%
20—39	33%
40—59	25%
60 or more	15%

Special consideration shall be given to canyon areas to protect against decimation due to insect or disease infestations.

4. **Lawn and Turf Areas.** Areas proposed for planting in turf or lawn shall be a minimum of ten feet in width. Drought-tolerant grass varieties shall be established and maintained.
5. **Mulch.** All landscape areas not planted with shrubs, perennials, turf or other groundcover shall be covered with a minimum three-inch layer of mulch (except around the crown of plants) to retain water, inhibit weed growth, and moderate soil temperature. Newly planted trees in areas predominantly improved with turf shall be provided a plant-free mulched area with a minimum radius of four feet around the trunks in order to protect the trunks from turf-maintenance operations and expedite tree root establishment. Nonporous materials (e.g., plastic) shall not be placed under the mulch. Bare soil is not permitted.
6. **Tree Placement.** Trees shall be located to provide summer shade and limit winter shade on walks, parking lots, and streets.
7. **Root Accommodation.** Prior to the installation of trees, a determination shall be made as to whether root barriers are necessary to prevent roots from uplifting or

cracking sidewalks or other hard surface improvements in the vicinity of the tree. Root barrier collars and root path trenches shall be installed as needed to provide such protection and to ensure healthy tree root growth.

8. Tree Size Requirements at Planting. All new and replacement trees shall meet the following minimum size requirements at planting:

a. Deciduous	two-inch caliper
b. Ornamental and flowering	one and one-half inch caliper
c. Evergreen	six feet tall

Where the above plant materials are secured on the basis of container size, equivalency shall be in accordance with the American Standard for Nursery Stock (ANSI Z60.1-204) as published and periodically amended by the American Nursery and Landscape Association.

9. Shrub Size at Planting. All shrubs shall be a minimum of twelve inches in height or spread (typically five gallon in size at planting, except when used solely for screening purposes, in which case twenty-four inch in height or spread is required).
  10. Area Requirements for Landscape Improvements. No less than twenty percent of the gross area of a property subject to the requirements of this chapter shall be improved and maintained as landscape area. Land area encumbered by buildings, structures, paving and other impervious surfaces not related to on-site landscape improvements shall not be considered in the calculation of landscape area.
- F. Design Guidelines. The intent of design guidelines is to acknowledge the expertise and integrity of licensed design professionals and to afford them a commensurate level of flexibility in achieving the purposes and intent of this chapter. Guidelines are included in this chapter so as to clarify or expand upon the principles associated with specified standards. They are further provided for guidance in the preparation and submittal of complying landscape plans. Design guidelines may be used either in conjunction with or in lieu of other required on-site landscape improvements. When employed in lieu of strict compliance with chapter provisions, substantiation of compliance with the purposes and intent of this chapter is required.
1. Separation and Screening with Plant Material. The intent of this guideline is to soften long expanses of building walls, fences and other hard-surface barriers and to effectively screen such surfaces from undisturbed on- or off-site view. Its further intent is to separate and screen new buildings and ancillary site improvements and activities from off-premise view.

2. **Integration with Plantings.** The intent of this guideline is twofold; (1) to provide better integration of newly constructed or remodeled site building improvements and outdoor spaces with other site improvements in the vicinity, or (2) to significantly enhance area characteristics through the coordinated introduction of new architectural themes, outdoor areas, and landscape improvements into areas in need of rehabilitation. In either event the incorporation of a diversity of plant materials, colors, textures, heights and aesthetic considerations of a similar nature may be employed.
3. **Establishing Privacy.** Privacy is particularly important where larger buildings are proposed next to the side or rear yards of smaller buildings. In such instances a higher-than-normal incidence of vertical landscape elements may be employed to address privacy concerns.
4. **Land Form Shaping.** Retention of existing land form is encouraged where site topography beneficially serves aesthetic and aquifer recharge purposes. Where reconfiguration of existing topographic conditions on a site is required to achieve these purposes, such grade changes should be either reminiscent of or complementary to natural land forms in the vicinity. The resulting land form modifications should, in either event, incorporate a high degree of both horizontal and vertical land form articulation, creating both berms and swales for aesthetic variety and groundwater collection purposes.
5. **Visual Integration of Fences or Walls.** Security fences and solid visual barriers commonly detract from the aesthetics of the area in which they're established. Similarly, though not so severely, garden walls, privacy fences, screen panels, arbors, and structures of a like nature may adversely affect area aesthetics. In such instances creative landscape enhancements may be employed to change the sense of proximity to such structures and to improve area aesthetics.

In applying these or similar strategies to achieve the purposes and intent of this chapter, the objectives with regards to aesthetic enhancement of on-site improvements are to:

- a. Add visual interest adjacent to large expanses of building walls;
- b. Enhance the architectural features of new building construction;
- c. Provide better site integration of structural improvements;
- d. Soften hard edges;
- e. Enhance the compatibility of land uses of different character, intensity, and density;
- f. Reduce the potentially adverse impacts of site-generated noise;
- g. Screen views into or between windows and defined outdoor spaces;

In applying these or similar strategies with regards to the integration of on-site improvements with surrounding areas, the objectives are to:

- i. Mitigate potential conflicts between divergent land uses, development densities or intensities, and building design or scale;

- ii. Maintain privacy for existing area residences;
- iii. Provide appropriate transitions between developed, managed landscape areas and those comprised of more natural vegetation;
- iv. Introduce high quality site improvements into areas in need of redevelopment.

#### **19.77.050 Landscape yards or setbacks and buffer areas.**

##### **A. Landscaping Required.**

1. Improvement Requirements in Relation to Yard Depth. In all zones where a front yard is required the entire frontage and depth of that yard area and any side yard area abutting a street shall be landscaped. Visibility at intersecting streets shall be maintained as set forth in Section 19.76.160 of this title. Parking areas shall not encroach on these minimum required setbacks except as herein authorized. The perimeter boundaries of all off-street parking areas that abut streets accessible to the public shall be landscaped and screened from public view. Specified yard area depth measurements are from the public right-of-way or private street easement boundary.
  - a. Front and street side areas where a yard or setback depth of no less than twenty feet is maintained.
    - i. An area of land graded and re-contoured at a maximum slope ratio of 3:1 (three feet horizontal to one foot vertical) so as to provide a meandering earthen berm traversing the entire width of the area and having a maximum height of three feet and an average height of thirty-two inches, as measured from the grade of the closest abutting sidewalk or top of curb.
    - ii. Landscaping within yards located between a street and a parking area shall include street trees as specified in this chapter. In addition, not less than fifty percent of these landscaped yards shall include a mix of evergreen and deciduous shrubs, herbaceous perennials, and nonturf groundcover. The balance of this area may be planted in turf and utilized for the placement of large boulders or similar visual accents so long as the combination of berms, plantings and visual accents effectively screen from public view any parked vehicles in contiguous off-street parking areas on the property.
  - b. Provisions for Yard Reductions to No Less Than Fifteen Feet. Front and street side yards or setback areas with no abutting off-street parking may be reduced to a depth of not less than fifteen feet with provision of the following:
    - i. An open decorative fence (picket, split rail, etc.) on the interior side of the landscaped area. Alternatively, a continuous hedge no less than three feet in height at planting, as measured from the grade of the abutting sidewalk or street, may be provided.

- ii. An area of land graded and re-contoured at a maximum slope ratio of 3:1 (three feet horizontal to one foot vertical) so as to provide a meandering earthen berm traversing the entire width of the area and having a maximum height of thirty-two inches and an average height of two feet, as measured from the grade of the closest abutting sidewalk or top of curb.
  - iii. No less than seventy-five percent coverage of the landscaped area with street trees (includes canopy at maturity) as specified in this chapter together with a mix of sub-canopy evergreen and deciduous shrubs, herbaceous perennials, and nonturf groundcover. The balance of this area may be planted in turf and utilized for the placement of large boulders or similar visual accents.
- c. Provisions for encroachment of off-street parking areas into required front and street side yards or setback areas.
  - i. Encroachments to Within Twelve Feet. Off-street parking areas may encroach into required front and street side yard or setback areas such that a minimum depth of not less than twelve feet is maintained subject to provision of the following:
    - (A) An area of land graded and re-contoured at a maximum slope ratio of 3:1 (three feet horizontal to one foot vertical) so as to provide an earthen berm traversing the entire width of the area with a height of no less than thirty inches above the grade of the abutting sidewalk or street and supported on its interior side by a masonry retaining wall no less than four feet in height above the grade of the abutting off-street parking area surface. The use of this alternative is restricted to properties where it is feasible to provide a parking area with a finished grade at least two feet below the grade of the adjacent street.
    - (B) No less than seventy-five percent coverage of the landscaped area with street trees (includes canopy at maturity) as specified in this chapter, together with a mix of sub-canopy evergreen and deciduous shrubs, herbaceous perennials, and nonturf groundcover. The balance of this area may be planted in turf and utilized for the placement of large boulders or similar visual accents.
  - ii. Encroachments to Within Eight Feet. Off-street parking areas may encroach into required front and street side yard or setback areas such that a minimum depth of not less than eight feet is maintained subject to provision of the following:
    - (A) A horizontally and vertically articulated decorative wall along the interior edge of the yard or setback area. Said wall shall have a minimum height of thirty-six inches, a maximum height of forty-eight inches and an average overall height of forty-two inches as measured from the adjacent paved parking area, if provided, or from

the adjacent sidewalk or street surface level, if not. In plan view the decorative screen wall shall vary by eight to sixteen-inch offsets at linear intervals along the wall of every eight to ten feet.

- (B) No less than ninety percent coverage of the landscaped area with street trees (includes canopy at maturity) as specified in this chapter, together with a mix of sub-canopy evergreen and deciduous shrubs, herbaceous perennials, and nonturf groundcover. The balance of this area must be surfaced with mulch in accordance with the standards of this chapter and may be utilized for the placement of large boulders or similar visual accents.

NOTE: Site improvements in conjunction with permitted and conditionally permitted uses in the M-1 and M-2 manufacturing zones are exempt from the above landscape area requirements.

- 2. Plant Quantities. Regardless of depth, all landscape areas adjacent to a street (including required park strips) shall be planted and maintained with the following:
  - a. One and one-fourth trees per one thousand sq. ft. of the ground or main floor level of nonresidential buildings in commercial zones.
  - b. Two trees per one thousand sq. ft. of the ground or main floor level of buildings in manufacturing zones.
  - c. One tree per twenty-five lineal feet of street frontage (not applicable to manufacturing and warehouse uses).
  - d. One shrub per four lineal feet of building foundation (may be grouped).
  - e. Any combination of other live plant materials and decorative features consistent with the requirements of this chapter.
- B. Interior Side and Rear Yards. The side and rear yard areas required by this title shall be landscaped and maintained as set forth in this chapter. Overhanging or cantilevered structures may not encroach upon such areas.
- C. Buffer Areas Between Nonresidential and Residential Land Uses. A landscaped buffer area not less than twenty feet wide shall be required between nonresidential and residential uses. A minimum of one tree for every twenty-five linear feet of landscape buffer is required. Either a linear or cluster arrangement of trees is allowed so long as the spacing of provided trees adequately screens the nonresidential use from the adjacent residential area. If a linear arrangement of trees is provided, tree spacing shall not exceed twenty-five feet on center.

#### **19.77.060     Parking lot landscaping.**

- A. Interior Parking Planters. Landscaped planters, which may incorporate depressions for the collection of stormwater run-off, shall be provided in any parking lot containing twenty or more parking spaces. These planters shall be constructed to the following standards.



1. Landscape Planter Types.
  - a. Islands. Islands are planter areas parallel to and situated at the end of a row of individual parking stalls.
  - b. Peninsulas. Peninsulas are planter areas parallel to and situated at specified intervals within a row of parking stalls.
  - c. Medians. Medians are planter areas perpendicular to and separating opposing rows of head-in parking stalls.
2. Landscape Planter Construction.
  - a. Landscape planters shall be constructed of continuous concrete curb in accordance with applicable Brighton standards and of no less than six inches in height unless a depression area for collection of stormwater runoff is provided.
  - b. A minimum four-foot radius curbing shall be provided along drive aisles.
3. Location, Spacing and Minimum Number of Landscape Planters Required. Landscape planters shall be provided in accordance with the following:
  - a. One island at each end of a row of parking stalls, together with either:
    - i. One peninsula for every six contiguous parking spaces or portion thereof per row where uninterrupted vehicular traffic flow is allowed between abutting parking spaces; or
    - ii. One continuous median per row of head-in parking stalls.
  - b. Flexibility is allowed in the configuration of landscape planters for rows with angled parking.
4. Landscape Planter Length. The length of each landscape planter, measured from face of curb to face of curb, shall be as follows:
  - a. As an island at the end of a row of individual parking stalls, fifteen feet; for opposing rows of head-in parking stalls, thirty feet.
  - b. As a peninsula parallel to a row of parking spaces, fifteen feet.
  - c. As a median abutting a single row of parking stalls or as a divider median separating opposing rows of head-in parking stalls, equal to the length of each row.
5. Landscape Planter Width. The width of each landscape planter, measured from face of curb to face of curb, shall be no less than:
  - a. Eight feet for each island at the end of a row of parking stalls.
  - b. Nine feet for each peninsula within a row of parking stalls.
  - c. Eight feet, with consideration for vehicle overhang, where divider medians occur adjacent to head-in, and ten feet, with the same considerations, for divider medians separating opposing rows of head-in parking stalls. Where

divider medians are improved with pedestrian walkways, the specified width is exclusive of the width of those walkways.

6. Vehicular Ingress/Egress Accommodation. That portion (eighteen inches minimum) of each landscape planter peninsula or island adjacent to a vehicular parking space shall be finished with a pervious surface suitable for temporary pedestrian use when exiting a vehicle. Alternatively, each such parking space may be provided at an additional eighteen-inch width and striped for pedestrian use. Stepping stones and graveled pathways shall be dispersed across and along median islands to minimize soil compaction and protect plant root zones.
7. Distribution of Landscaped Planters. Interior planting areas shall be located to most effectively accommodate stormwater runoff, provide positive drainage away from buildings, and provide maximum shade for large expanses of paving.

B. Plant Quantity, Size, and Diversity in Parking Lot Landscaped Planters.

I. Minimum Number of Plants Required.

- a. Within landscape planter islands and peninsulas.
  - i. One shade tree and four shrubs for each fifteen-foot planter,
  - ii. Two shade trees and eight shrubs per thirty-foot planter,
  - iii. Three additional shrubs where lighting standards are located in the planter.
- b. Within landscape planter medians.
  - i. Two shade trees and eight shrubs for every thirty linear feet, together with three additional shrubs for each lighting standard.

2. Minimum Size Requirements at Planting.

- a. Trees. Trees required for installation within interior parking areas shall be no less than two-inch caliper in size at planting.
- b. Shrubs. No less what is customarily accommodated within a five gallon size container, in accordance with industry standards.
- c. Groundcovers. No less than what is customarily accommodated within a one gallon size container in accordance with industry standards.

3. Tree and Shrub Distribution.

- a. Within landscape planter islands and peninsulas.
  - i. In order to minimize damage by vehicles, trees shall not be planted closer than three feet to top back of curb or exterior edge of depressed parking lot landscaped planters.
  - ii. Shrubs shall be situated such that they remain within the confines of the planter at maturity.
- b. Within landscape planter medians.

- i. Trees shall be planted such that they are dispersed from end to end of the planter at twenty-five to thirty-foot intervals (flexibility in actual placement is permitted).
  - ii. Shrubs shall be planted such that they assume as natural appearance as possible (flexibility in actual placement is permitted) yet remain within the confines of the planter at maturity.
- 4. Diversity of Plants. A mix of coniferous and deciduous trees and shrubs shall be provided in parking lot landscapes. Not less than forty percent of all trees and shrubs shall be coniferous except as warranted by site conditions.
- C. Mulch Required. Organic mulch shall be spread to a minimum depth of three inches and rock to at least two and one-half inches in depth in all parking lot landscaped planters. Appropriate measures shall be taken to retain the mulch within the planter and to renew it as necessary. Bare dirt is prohibited.
- D. Irrigation. Landscape planters within parking areas shall be irrigated with drip emitter or bubbler type irrigation systems only.
- E. Wheel Stops. Where vehicular parking stalls abut interior parking area landscaping that is not situated within and protected by a landscape planter, wheel stops shall be installed at a minimum of two feet from the edge of that landscape area.

**19.77.070 Screening of service and mechanical equipment.**

- A. Screening Required. Service areas and on-grade mechanical equipment shall be screened from public view by plants, solid opaque fencing, berms, or a combination thereof. These elements shall also be sited to minimize their visibility and impact or enclosed so as to appear to be an integral part of the architectural design of the building. Site elements that are subject to this provision include but are not limited to the following:
  - 1. Air conditioning units;
  - 2. Electrical transformers;
  - 3. Loading areas and docks;
  - 4. Mechanical equipment;
  - 5. Outdoor storage areas;
  - 6. Public utility transformers;
  - 7. Service yards;
  - 8. Telephone transformers;
  - 9. Trash collection areas;
  - 10. Trash dumpsters.

#### **19.77.080 Functional and aesthetic enhancements.**

- A. Pedestrian and Vehicular Pathways. The design of pedestrian and vehicular travel ways for multiple-family, residential, retail commercial, office, public and quasi-public, and mixed use developments shall incorporate plantings and related landscape improvements for separation of pedestrian and vehicular traffic movements, improved pedestrian convenience and safety, and better-defined vehicular circulation and parking.
- B. Building Entrances, Drop-off and Pick-up, and Outdoor Dining Areas. Plantings and related landscape improvements shall be incorporated into the design of building entrances, drop-off and pick-up, and outdoor dining areas in order to: separate these areas from on-site vehicular circulation and parking facilities and from off-site traffic; enhance pedestrian comfort, convenience and safety; and facilitate outdoor dining with maximum insulation from vehicular traffic impacts.
- C. Drive-Through Service Facilities and Automatic Car Washes. Plantings and related landscape improvements shall be provided in conjunction with drive-through service facilities and automatic car washes in order to: introduce a more aesthetically pleasing approach to these types of vehicular activities on newly developed or redeveloped sites; better integrate these types of land uses into the established character of surrounding area improvements; and screen queued vehicles from the view of passing motorists on adjacent roadways.

#### **19.77.090 Landscaping of detention/retention basins and ponds.**

A planting area and related landscape improvements shall be incorporated into the design of all lands to be used as detention/retention basins and ponds. Such landscaping may include shade and ornamental trees, evergreens, shrubbery, hedges, turf, groundcover and other plant materials and related landscape improvements.

#### **19.77.100 Landscape plan submittal requirements.**

- A. General Provisions.
  - 1. All applications for site development plan approval for land uses subject to this chapter shall be accompanied by a landscape plan package and water allowance worksheet prepared in accordance with the requirements of this chapter.
  - 2. Submitted landscape plan packages shall be prepared and certified for compliance with all requirements of this chapter by a landscape architect licensed to practice in the state of Utah under Title 58 of Utah Code. A landscape designer certified by the Utah Nursery and Landscape Association may submit a landscape plan package if the certified designer is employed by the contractor installing plantings of the specific project submitted.
  - 3. All submitted irrigation plans shall be prepared by a qualified professional who is licensed under Utah Code Title 58 or by a person who is exempt from professional licensure requirements for the scope of work performed.

- B. Landscape Plan Package Contents. The information to be provided with the landscape plan package shall be presented in the following format:
1. Conceptual Planting Plan. The intent of the conceptual planting plan is to illustrate the overall design concept for landscaping and depict how it relates to the proposed development of the site. The conceptual planting plan shall describe the general landscape design intent and the water conservation concept statement of the proposed landscape improvements. At a minimum, the conceptual planting plan shall include the information as set forth in the following tables codified in this chapter.
  2. Preliminary Plan. The intent of the preliminary plan is to illustrate the master landscape plan for the development. The landscape preliminary plan shall state how the proposal is consistent with the purposes and intent of these regulations as set forth at the beginning of this chapter. At a minimum, the preliminary landscape plan shall include the information set forth in the following tables codified in this chapter.
  3. Final Plan. The intent of the final plan is to ensure each phase of the final landscape plan is consistent with the master landscape plan for the development and to illustrate the specific landscaping details for each phase. The final landscape plan shall describe the design intention and shall state how the proposal is consistent with this section, and/or with the preliminary landscape plan, if one was required. The final landscape plan shall be on a separate page from the final site development plan. The scale shall not be greater than one inch equals to fifty feet. At a minimum, the final landscape shall include the information set forth in the following tables.
  4. Project Data.

#### **PROJECT DATA SHEET**

Information Required	Sketch	Preliminary	Final
The project title and Brighton site development plan application number (the file number assigned to the development proposal that the landscape plan is associated with)	X	X	X
Preparation date and issue/revision/date table	X	X	X
The name, address, telephone number, fax, and e-mail of the applicant or authorized agent	X	X	X
The name, address, telephone number, fax, and e-mail of the landscape architect, landscape designer, or other qualified professional who prepared the landscape plan,	X	X	X

together with their professional registration stamp (as required)			
The landscape contractor to be used on the project, if known at the time of application	X	X	X
Site vicinity and location map, including the street address and tax identification number of the property	X	X	X
Sheet index	X	X	X
General landscape design intent statement including the general character and location of proposed landscaping and open area and how it meets the intent of these regulations	X	X	X
Annual water budget worksheet	X	X	X
Soils analysis and proposed soils amendments		X	X
Signature block for landscape package approval			X

#### 5. Grading and Drainage Plan.

### **GRADING AND DRAINAGE PLAN SHEET**

Information Required	Sketch	Preliminary	Final
Scale, north arrow, site boundary including adjacent property lines and street names	X	X	X
Existing and proposed adjacent uses	X	X	X
Existing and proposed private driveways, off-street parking areas, patios, walkways, service areas and other paved surfaces	X	X	X
Existing and proposed buildings and structures (general locations)	X	X	X
Existing and proposed utilities and easements		X	X

Limits of proposed site disturbance		X	X
Existing and proposed building and structure finish floor elevations			X
Spot elevations and contour lines at no more than one foot intervals to determine high points and low points, positive drainage of paved surfaces, wall heights and other vertical control		X	X
Existing landscaping, including location, type and size	X	X	X
Any existing landscaping proposed to be removed	X	X	X

#### 6. Landscape Planting Plan.

#### LANDSCAPE PLANTING PLAN SHEET

Information Required	Sketch	Preliminary	Final
Base plan consisting in information included on the grading and drainage plan	X	X	X
Limits of proposed site disturbance	X	X	X
General landscape improvements with planting symbols clearly drawn to indicate location and general plant category (deciduous tree, evergreen tree, deciduous shrub, evergreen shrub, groundcover, etc.)	X	X	X
Legend of plant category symbols keyed to general plant material schedule indicating quantities of each plant category and listing of plant species (include Latin name) included in each category		X	X
Typical detail drawings at one inch equals to twenty feet to illustrate perimeter treatment, buffering, typical front yard, and any special treatment areas on the site		X	X

All hydrozone boundaries and total area within each hydrozone with each hydrozone clearly labeled high, moderate, low or very low		X	X
Detailed landscape improvements with planting symbols clearly drawn to indicate each plant (deciduous tree, evergreen tree, deciduous shrub, evergreen shrub, groundcover, etc.)		X	X
Detailed plant material schedule with abbreviation identification key, quantity of each plant, botanical name, common name, hydrozone rating (high, moderate, low or very low), plant/container size, spacing and notes		X	X
Define areas to be considered open areas and if they will be public or private. Indicate how open areas will be maintained including; erosion control, re-vegetation, and weed management both during and after construction		X	X
Plant installation, mulching, tree staking, and any other applicable planting and installation details		X	X
Soil preparation details including instructions to scarify planting pit bottom and sides and surface ground planes to promote root penetration in compacted soils		X	X
Protection of existing plant and other site features to remain. Clearly identify the locations, species, size and condition of all significant trees, each labeled as to its intended retention, relocation or removal	X	X	X

7. Soils Report. A soils report is required in all cases. Special procedures or requirements shall be incorporated in the preparation and recommendations of the soils report where the past use of a site has resulted in soil contamination or where difficult soil or landscaping conditions are known to exist. The soils report shall describe:
  - a. The depth, composition, fertility, bulk density, and landscaping suitability of the top soil and subsoil at the site;
  - b. Soil class;



- c. An approximate soil infiltration rate for site soils, either measured or derived from soil texture/infiltration rate tables. A range of infiltration rates shall be noted where appropriate;
- d. A measure of pH, electroconductivity (ERC), salt absorption ratio (SAR) and organic matter;
- e. Recommendations for retention and re-use of viable top soil on the site together with such soil amendments as are necessary to ensure the health and sustainability of the landscaping to be planted.

The final recommendations of the soils report shall be incorporated into the landscape planting plan and implemented with site planting operations.

- 8. Irrigation Plan. A detailed irrigation plan shall be drawn at the same scale as the landscape planting plan and shall reflect the requirements set forth in Section 19.77.030(E)(2) of this chapter.
- 9. Irrigation Schedule. The irrigation schedule required in Section 19.74.030(E)(2)(k) of this chapter shall be provided in tabular form and shall specify:
  - a. Plant type (e.g., turf, trees, low water use plants);
  - b. Irrigation type (e.g., sprinklers, drip, bubblers);
  - c. Flow rate in gallons per minute;
  - d. Precipitation rate in inches per hour (sprinklers only);
  - e. Run times in minutes per day;
  - f. Number of water days per week;
  - g. Cycle time to avoid runoff.

#### **19.77.110 Landscape plan package acceptance.**

- A. Standard Compliance Procedures. Submitted landscape plan documentation packages, water allowance worksheets, irrigation plans and irrigation schedules prepared in strict compliance with the requirements of this chapter shall be accepted upon certification of compliance with those requirements by the qualified professionals who prepared and submitted those plans. Final approval shall be as granted by the director upon completion of an internal or external review to assure ordinance compliance.
- B. Alternative Compliance Procedures. As authorized by this chapter, an alternative landscape and tree protection plan may be substituted in whole or in part for a landscape plan prepared in strict compliance with the chapters requirements.
  - 1. Alternative Plan Preparation and Submittal. Alternative landscape plans shall be prepared and submitted in accordance with submittal requirements for a landscape plan package. The submittal shall clearly identify and discuss the modifications and alternatives proposed and the ways in which the plan will better

accomplish the purposes and intent of this chapter than would a plan which strictly complies with the chapter's specified standards.

2. **Alternative Plan Review Criteria.** Certification of alternative plans for compliance with the purposes and intent of this chapter requires that the qualified professional who prepared the plans substantiate in writing how the alternative proposal meets or exceeds the degree of compliance that would be achieved through the strict application of specified standards. In making such assertions the qualified professional who prepared the plans shall clearly demonstrate how the alternative plans will:
    - a. Provide exceptional preservation and incorporation of existing site vegetation;
    - b. Provide significant protection of natural areas and features;
    - c. Provide for maximum retention of existing tree canopy cover;
    - d. Create exceptional enhancement of neighborhood continuity and connectivity;
    - e. Provide for extensive accommodation of nonvehicular access and use;
    - f. Represent greater innovation in site design and plant use.
  3. **Alternative Plan Approval.** Final approval shall be as granted by the director upon completion of an internal or external review to assure satisfaction of the above criteria.
- C. **Plan Approval and Distribution.** Copies of the professionally certified landscape plan package shall be provided for distribution to the following:
- a. One copy to the property owner or site manager;
  - b. Two copies to the chief building official for attachment to approved building plans and use in completion of site inspections;
  - c. One copy to the director for retention in the site development application file.
- D. **Plan Revisions.** Any revisions to the landscape plan package shall be reviewed and approved in writing by the director prior to commencement of construction. Re-certification of compliance with the requirements of this chapter shall be provided by the qualified professionals who prepared and submitted the plan revisions. Site development plans that are substantially revised may require commensurate revisions to associated landscape plans.
- E. **Phasing.** Landscape plans for projects proposed for development in multiple phases shall clearly specify the landscape improvements required in conjunction with each phase.

#### **19.77.120 Installation of landscape improvements.**

- A. **Irrigation System Installation.**

1. **Installer Qualifications.** Irrigation Association (IA) certification shall be required for all contractor-installed landscape irrigation systems except where construction observation services are provided by a licensed landscape architect or other qualified professional under Title 58 of Utah Code.
  2. **License, Insurance and Bonding Requirements.** All installers, designers, and auditors shall meet state and local license, insurance, and bonding requirements and be able to show proof of such.
- B. **Plant Delivery and Installation.**
1. Plants shall be protected during delivery to prevent leaf desiccation.
  2. Upon delivery, unplanted trees, shrubs and other live plants shall be kept in shade, well protected with soil, mulch or other acceptable material and appropriately watered. Plants that have died or show signs of serious deterioration prior to planting shall be replaced.
  3. All trees and shrubs shall be planted in such a manner as to ensure their survival. This shall include the planting of intact balls, planting at proper depth, properly backfilling, mulching and watering, and construction of a planting saucer. Newly planted trees shall be provided a plant-free mulched area with a minimum radius of four feet around the trunks in order to expedite tree root establishment.
  4. Any rope or wire binding the ball shall be cut prior to the conclusion of backfilling operations to prevent girdling of the tree trunk.
  5. If a nonbiodegradable material is used around the ball, it shall be completely removed prior to backfilling.
  6. In order to protect plantings from traffic, de-icing salts, and snow plowing operations, landscaped areas with tree or shrub plantings within six feet of a paved vehicle parking area or access way shall be raised above such areas by use of curbing or edging or, where depressed for stormwater collection and aquifer recharge, clearly posted for protection during periods of inclement weather.
- C. **Excavation.** Site excavation shall be accomplished in accordance with industry standards and applicable ordinance requirements.

#### **19.77.130 Construction inspection and compliance requirements.**

- A. **Construction Observation and Certification of Compliance.** Construction observation and monitoring of all required landscape improvements shall be provided by a licensed landscape architect so as to ensure compliance with the approved landscape plans for the site.
- B. **Right to Inspect.** The director reserves the right to perform site inspections at any time and to require corrective measures regarding the installation of site landscaping and irrigation system improvements found not to comply with the requirements of this chapter.

- C. The director shall field-verify landscaping improvements prior to final project approval.

**19.77.140 Post-construction verification of compliance.**

- A. Single-Phase Projects. Following construction and prior to issuing an approval for occupancy a landscape architect or other qualified professional shall complete a site inspection of all installed site landscaping improvements and provide written certification of compliance with approved plans. The director shall field-verify landscaping improvements prior to final project approval. Certification of compliance with approved irrigation plans shall be provided by the licensed professional under whose construction observation the irrigation system was installed.
- B. Multi-Phase Projects. Projects approved for development in multiple phases shall be inspected and certified to be in compliance with the approved plans for each respective phase prior to the occupancy or use of the development associated with that phase. Permits shall not be issued for subsequent phases without prior director approval until this requirement has been satisfied.

**19.77.150 Certificate of substantial completion.**

Upon completion of all required landscaping improvements the property owner shall complete a certificate of substantial completion for submittal to the director. A disclosure document shall be filed with Brighton recorder's office clearly indicating that the property is subject to the requirements of this chapter and that any re-landscaping by the present or future property owners shall be in accordance with the certified landscape plan for the property. Proof of recordation shall be provided prior to final land use approval.

**19.77.160 Long-term viability of established landscapes.**

- A. Plant Maintenance. The owner, tenant and any agent shall be jointly and severally responsible for the maintenance of all landscaping in good condition and free from refuse and debris so as to present a healthy, neat and orderly appearance. Where applicable an adequately funded Homeowner's or Property Owner's Association shall assume and be held liable for such responsibilities. In the latter instance, provisions for long-term maintenance of required landscaping in the event of dissolution of the Homeowner's or Property Owner's Association shall be provided prior to landscape plan acceptance.
- B. Plant Survival. All plant materials shall be regularly maintained in a healthy condition and shall be guaranteed for survival for two years from planting. During this period, each plant shall show at least seventy-five percent healthy growth and shall have the natural characteristic of the plant of its species. Any plant found dead or unsatisfactory by the director during the guarantee period shall be replaced until it has lived through the required two-year survival period.

#### **19.77.170 Completion of and submittal of water performance audit.**

Following construction and prior to issuing an approval for occupancy, a water audit shall be conducted by an IA certified landscape irrigation auditor. Irrigation system improvements required to achieve compliance with the requirements of this chapter shall be provided by the property owner as necessary. The water performance audit will verify that the irrigation system complies with the minimum standards of this chapter. The minimum efficiency required for the irrigation system is sixty percent for the distribution efficiency for all fixed spray systems and seventy percent distribution efficiency for all rotor systems. Copies of the auditor's certification of compliance shall be provided to the director for retention in the project file as well as to the irrigation system designer, installer, and owner/developer of the property. Compliance with this provision is required before Brighton will issue a letter of final acceptance.

#### **19.77.180 Definitions.**

For the purposes of this chapter, the following terms shall have the meanings herein prescribed:

"Annual water budget" means the target maximum amount of irrigation water applied to a landscaped area measured in gallons per square foot per year.

"Automatic controller" means a timer, capable of operating valve stations to set the days and length of time of a water application.

"Backflow" means any unwanted flow of used or nonpotable water or substance from any domestic, industrial or institutional piping system into the pure, potable water distribution system. The direction of flow under these conditions is in the reverse direction from that intended by the system and normally assumed by the owner of the system.

"Backflow prevention device" means a safety device that prevents the flow of water from the water distribution system back to the water source. Compliance with applicable health and water quality regulations is required.

"Bubbler" means an irrigation head that delivers water to the root zone by "flooding" the planted area, usually measured in gallons per minute. Bubblers exhibit a trickle, umbrella or short stream pattern.

"Drip emitter" means a drip irrigation fitting that delivers water slowly at the root zone of the plant, measured in gallons per hour.

"Drought-tolerant plant" means a plant that can survive without irrigation throughout the year once established, although supplemental water may be desirable during drought periods for improved appearance and disease resistance.

"Establishment period" means the first three hundred sixty-five days of growing season after installing the plant in the landscape.

"Evaporation [E]" means water movement from a wet soil or plant surface that does not pass through the plant. Evaporation is the physical process by which a liquid is

transformed to the gaseous state, which in irrigation generally is restricted to the change of water from liquid to vapor. Occurs from plant leaf surface, ground surface, water surface and sprinkler spray.

"Evapotranspiration [ET]" means the quantity of water evaporated from adjacent soil surfaces and transpired by plants during a specific time, expressed in inches per day, month or year.

"FPS" means feet per second.

"Flow rate" means the rate at which water flows through pipes and valves (gallons per minute or cubic feet per second).

"Grading plan" means a plan that shows all finish grades, spot elevations as necessary and existing and new contours with the developed landscaped area.

"Groundcover" means material planted in such a way as to form a continuous cover over the ground that can be maintained at a height not more than twelve inches.

"Hardscape" means elements of the landscape such as sidewalks, pathways, benches, patios, decks, seating areas, drives, and areas for vehicular parking typically constructed from nonliving materials like concrete, boulders, brick, blacktop and lumber.

"Hydrozone" means the grouping of plants with similar water requirements so that they can be irrigated with a common zone.

"Infiltration rate" means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

"Irrigated landscaped area" means all portions of a development site to be improved with planting and irrigation. Natural open space areas shall not be included in the irrigated landscaped area.

"Irrigation contractor" means a person who has been certified by the Irrigation Association (IA) to install irrigation systems.

"Irrigation designer" means a person who has been certified by the Irrigation Association (IA) to prepare irrigation system designs, and/or a landscape architect.

"Irrigation plan" means a plan that shows the components of the irrigation system with water meter size, backflow prevention, precipitation rates, flow rate and operating pressure for each irrigation circuit, together with identification of all irrigation equipment.

"Landscape architect" means a person who is licensed to practice landscape architecture by the state of Utah.

"Landscape designer" means a person who has been certified by the Utah Nursery and Landscape Association (UNLA) and who prepares landscape plans as authorized by Utah Code.

"Landscape irrigation auditor" means a person who has been certified by the Irrigation Association to conduct a landscape irrigation audit.

"Landscape plan documentation package" means an assemblage of graphics and written materials including criteria, specifications, and detailed plans to arrange and modify the effects of natural features such as plantings, ground and water forms,

circulation, walks and other features to comply with the provisions of this chapter. The landscape plan documentation package shall include a project data sheet, a planting plan, an irrigation plan, a grading plan, a soils report, a landscape water allowance, and an irrigation schedule.

"Landscape water allowance" means, for design purposes, the upper limit of annual applied water for the established landscaped area. It is based upon the local reference evapotranspiration rate, the ET<sub>0</sub> adjustment factor and the size of the landscaped area.

"Landscape zone" means a portion of the landscaped area having plants with similar water needs, areas with similar microclimate (i.e., slope, exposure, wind, etc.) and soil conditions, and areas that will be similarly irrigated. A landscape zone can be served by one irrigation valve, or a set of valves with the same schedule.

"Landscaped area" means an entire parcel of real property minus that area encompassed by building footprints, driveways, and the nonirrigated portions of parking lots. Water features and areas improved with walkways, benches, seating areas and similar improvements are included in the calculation of the landscaped area.

"Landscaping" means any combination of living plants, such as trees, shrubs, vines, ground covers, flowers, or grass; natural features such as rock, stone, or bark chips; and structural features, including but not limited to, walks, drives, benches, seating areas, fountains, reflecting pools, outdoor art work, screen walls and fences.

"Maximum extent feasible" means no prudent, practical, and feasible alternative exists, and all possible planning to minimize potential harm has been undertaken. Economic considerations may be taken into account but shall not be the overriding factor in determining maximum extent feasible.

"Mulch" means any organic material such as leaves, bark, wood chips, straw, or inorganic material such as crushed stone or gravel, or other materials left loose and applied to the soil surface for the beneficial purpose of weed suppression and the conservation of soil moisture.

"Pervious surface" means a layer through which water and air may freely migrate.

"Planting plan" means a plan that clearly and accurately identifies the location and species of new and existing trees, shrubs, groundcovers, and other plants on a site.

"Precipitation rate" means the depth of water applied to a given area, usually measured in inches per hour.

"Rain shut-off device" means a device wired to the automatic controller that shuts off the irrigation system when it rains.

"Reference evapotranspiration rate or ET<sub>0</sub>" means the rate of evapotranspiration from an extensive surface cooling season green grass cover of uniform height of twelve cm., actively growing, completely shading the ground, and not short of water.

"Runoff" means irrigation water that is not absorbed by the soil or landscape area to which it is applied and which flows onto other areas.

"Soils report" means a report by a soils laboratory indicating soil type(s), composition, bulk density, infiltration rates, pH, electroconductivity (ERC), salt

absorption ratio (SAR) and organic matter for the top soil and subsoil of a given site. The soils report also includes recommendations for soil amendments.

"Spray sprinkler" means an irrigation head that sprays water through a nozzle.

"Station" means an area served by one valve.

"Stream sprinkler" means an irrigation head that projects water through a gear rotor in single or multiple streams.

"Street tree" means a shade or ornamental tree planted along public or private streets and drives to provide shade to reduce heating of pavements, provide spatial definition and visual enhancement.

"Supervision (of an employee)" means that a qualified licensed professional is responsible for and personally reviews, corrects when necessary, and approves work performed by any employee under the direction of the licensed professional.

"Turf" means a surface layer of earth containing mowed grass with its roots.

"Valve" means a device used to control the flow of water in an irrigation system.

"Water audit" means an on-site survey and measurement of irrigation equipment and management efficiency, and the generation of recommendations to improve efficiency.

"Water-conserving plant" means a plant that can generally survive with available rainfall once established although supplemental irrigation may be needed or desirable during spring and summer months.

"Zone" means a landscape zone.

## **Chapter 19.78 PLANNED UNIT DEVELOPMENTS [\[3\]](#)**

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#### **19.78.010 Purpose.**

The purpose of a planned unit development (PUD) is:

1. To provide a high quality living environment, and to utilize and incorporate natural features in the land development design.
2. To provide a more efficient use of the land and the preservation of greater proportions of open space for recreation and visual use than is otherwise provided for in the zoning regulations.
3. To provide good and compatible neighborhood and housing design by utilizing a variety of dwelling types and site arrangement plans to allow for greater flexibility and diversity in the physical pattern of the development.
4. To provide developments compatible with existing residential uses while maintaining a harmonious environment within the community.
5. To create mixed use areas designed to be beneficial to the neighborhood.
6. To ensure substantial compliance with the intent of this chapter related to the public health, safety and general welfare, while securing the efficient use of the land for residential, or a combination of commercial and residential development.

It is the intent of this chapter that the development plan for a planned unit development shall be prepared by a designer(s) having professional competence in urban planning.

#### **19.78.020 Applicability and area requirements.**

A planned unit development is a conditional use that is only allowed for residential uses, except as provided in Section 19.78.040, and in zones that allow residential uses. The provisions in this chapter shall govern over the chapters relating to these other zones and other chapters in this title, with the exception of the FCOZ ordinance, Chapters 19.72. A planned unit development in these zones shall have a minimum area of three acres, with the following exceptions:

1. Existing condominium developments that cannot be sold or refinanced without the common area adjoining the homes in the development being divided up into individual lots that include the adjoining homes, and where these newly created lots would not qualify as traditional subdivision lots under Brighton ordinance. In such cases, the newly created lots may qualify as a planned unit development if the development is at least one acre in size. Such a development shall be exempt from the provisions of this chapter, except Sections 19.78.090—19.78.130 relating to review of the development.
2. Developments abutting or contiguous to a corridor as defined in the general plan shall have a minimum area of one acre. To qualify as a development that is

abutting or contiguous to a corridor, said development shall have a minimum frontage of the sum of the required minimum lot width of two lots as determined by the current zoning designation.

#### **19.78.030 Development requirements.**

The following are required for all developments:

1. **Ownership.** The property shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.
2. **Open Space.** Common and private open space shall be provided and shall cover no less than forty percent of the gross site area. Common open space shall be provided in the amount of at least twenty percent of the gross site area. For purposes of this chapter, gross site area is defined as the total area of a planned unit development excluding anything in the public right-of-way.

The required common open space shall be land areas that are not occupied by buildings, dwellings, structures, parking areas, streets, public park strips, curb-gutter-sidewalk, driveways, or alleys and shall be accessible by all residents of the development. Buildings erected for the purpose of providing an amenity may be included as open space. Said open space may be an area of land or water set aside, or reserved for use by residents of the development, including an expanse of lawn, trees, plants, fully accessible landscaped roof areas, or other natural areas. Common open space also includes common walkways (but not curb-gutter-sidewalk), formal picnic areas, and recreational areas. Common open space may be distributed throughout the development and need not be in a single large area. Common open space may include sensitive areas, such as areas with thirty percent or greater slope, fault zones, flood plains, high water tables, and wetlands, if they have been designed as an integral element of the project.

Private open space is that space which is provided for each dwelling unit for personal use. Private open space is typically located immediately adjacent to or attached to the dwelling unit it is designed to serve and is for the exclusive use of the residents of the dwelling unit. Landscaped roof areas, balconies, or decks attached to individual units are considered private open space and are not to be calculated as part of required common open space.

The planning commission may reduce the open space requirements of this section in order to accommodate a density bonus provided for in this chapter.

3. **Interior Streets.** The design of public and private streets within a development shall follow Brighton standards for roadway development as defined by Brighton transportation engineer. Private streets shall be subject to the same inspections and construction standards as required for public streets. Brighton shall be granted a utility easement of the entire interior street system in a development project. All private streets shall be conveyed to a private association.

4. Garbage and Recycling. The development shall be designed to accommodate and efficiently manage the collection, storage, and removal of garbage in harmony with the neighborhood so as to minimize detrimental effects of the collection, storage, and removal on any residence within the development or abutting neighborhoods. If dumpster enclosures are provided for the development, no refuse dumpster or dumpster enclosure structure shall be located closer than ten feet to any perimeter property line. Enclosure structures must have a minimum of three sides that reflect or emulate the materials, design, and quality of the overall development. All developments shall provide recycling services.
5. Parking. The following minimum parking shall be provided for all multi-family projects under this chapter:
  - a. Table of Parking Ratios.

One bedroom unit	1.5 parking spaces per unit
Two or more bedroom units	2.0 parking spaces per unit
Guest parking spaces	0.33 parking spaces per unit (min. of 6)
Storage parking spaces for recreational vehicle storage	Not Allowed

- b. The parking requirements identified in this section supersede other parking requirements in this title.
- c. All parking areas, covered or open, except garages, shall have a landscaped buffer in accordance with Chapter 19.77, Water Efficient Landscape Design and Development Standards.
- d. Developments offering the amenities listed below are entitled to the applicable parking reductions. These reductions are not mandatory, but if they are chosen, are cumulative. The planning commission may further modify the required parking with support of a traffic study.

#### Eligible Unit Parking Reductions

Amenity	Reduction (stalls/unit)
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Car Sharing (minimum 100 dwelling units)	0.05 per car share vehicle
Bicycle Lockers/Storage (1 space per unit required)	0.05
Bicycle Share (on-site self-serve bike station)	0.05
Development-supplied transit passes for all residents	0.15
Proximity of development within ¼ mile of a rail or Bus Rapid Transit (BRT) station	0.20
Proximity of development within ½ mile of a rail or Bus Rapid Transit (BRT) station	0.10
Senior Housing	0.20
Housing for students (< .25 miles from campus)	0.10
For Mixed-Use PUDs (19.78.040), shared parking that allows both customers and residents to park in the same spaces.	0.20

- e. Parking is prohibited within approved fire access and turn-around facilities.
- f. Garages are encouraged.
  - (1) Garage parking, if used, shall have a minimum unobstructed size of twenty-two feet wide by twenty feet in length, or twenty feet wide by twenty-two feet in length. Single-car garages are also permitted and shall have a minimum unobstructed size of ten feet wide by twenty-two feet in length, or eleven feet wide by twenty feet in length.
  - (2) Covered parking, if used, shall be placed in locations adjacent or convenient to the buildings that they are intended to serve.
  - (3) Tandem spaces may be allowed with a minimum size requirement of twenty feet long by nine feet wide per parking space, up to a maximum of two contiguous spaces per unit.
  - (4) Tandem spaces may be allowed with a minimum size requirement of twenty feet long by nine feet wide per parking space, up to a maximum of two contiguous spaces per unit.
- g. Underground parking. Installation of underground parking adequate to meet fifty percent of the parking requirements of this section excluding guest

parking, shall receive a twenty percent density bonus for the planned unit development.

6. Building Materials. Exterior materials of a durable or resilient nature such as brick, stone, stucco, prefinished panel, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics shall be used. No single material is allowed to exceed fifty percent on street-facing facades. Other materials may be considered for soffits, or as an accent or architectural feature. Twenty-five year guarantee, architectural shingles and/or other longer lasting roof materials are required.
7. Landscaping on Public Right-of-Way. With the exception of Forestry Zones, where a development is adjacent to a public right-of-way, a permanent open space shall be required along any front, side, or rear yard adjacent to said right-of-way. This area shall be kept free of buildings and structures (except fences, as per Chapter 19.77.050, and approved by the planning commission), and permanently maintained with street trees and other landscaping, screened or protected by natural features, as per Chapter 19.77. If such areas are the result of double frontage lot designs with inadequate access to the street, such areas shall be landscaped as per Chapter 19.77 with a five-foot landscaped area. Aesthetic entrance features are encouraged. Additional landscape treatments or buffers may also be required with width and landscaping specifications as per Chapter 19.77.
8. Perimeter Fencing. With the exception of Forestry Zones, fencing around the perimeter of all developments shall be provided. Acceptable fencing materials include architecturally designed brick, stone, or block, or pre-cast concrete. Fencing with materials using composite products, wrought iron, wood, or vinyl may be allowed with a minimum two-foot wide, six-foot tall brick or stone pillar spaced every ten feet on center. Unless otherwise allowed by the planning commission, exterior fencing along a public right-of-way shall be limited to brick, stone, or block, or pre-cast concrete and be setback a minimum of five feet from the property line to allow for a landscaping buffer designed in accordance with Chapter 19.77 to soften long expanses of walls. Interior fencing shall comply with Section 19.78.030(11)(f).
9. Interior Street Lights. With the exception of Forestry Zones, street and pedestrian lighting for streets on the interior of the PUD is required. All lighting fixtures shall be directed downward with mechanisms to prevent dark sky illumination. The applicant shall submit a plan which indicates the type and location of lights in relation to the development and designed for pedestrian safety. Minimum average foot-candles for local residential roads (thirty-five feet maximum) shall be 0.3, and shall be 0.5 for residential collector roads (thirty-six feet—forty-five feet).
10. Signage. Only low profile signs with a maximum size of fifty square feet, and five feet in height are allowed. No temporary signs are allowed other than for sale or rent signs with a maximum of six square feet in area per side. Only three such signs are allowed per three hundred feet of frontage. The size, location, design

and nature of signs, if any, and the intensity and direction of any associated lighting shall be detailed in the application, and, except as provided in this chapter, shall be consistent with the characteristics of the community and Chapter 19.82, Signs.

11. Site Plan. All developments shall be guided by a total design plan in which the following development standards may be varied to allow density bonuses, and flexibility and creativity in site design and building location. The planning commission may require such arrangements of structures, open spaces, landscaping, buffering, and access within the site development plan so that adjacent properties will not be adversely affected. The following criteria shall be used by the planning commission principally to assure the design objectives of this section are met.

a. Density. Subject to the following density bonuses, the density allowed for a development shall be no greater than that allowed in the zone in which it is located. Density shall be calculated using only net developable acreage. A density bonus in the following amounts is allowed if either or both of the following conditions exist:

- (1) For developments with underground parking that is adequate to meet the parking requirements of this chapter excluding guest parking, a density bonus of twenty percent is allowed pursuant to 19.78.030(5)(g); and/or
- (2) For developments within one-quarter mile (improved walking distance) of a rail or Bus Rapid Transit (BRT) station, a density bonus of twenty percent is allowed. For developments within one-half mile (improved walking distance) of a rail or BRT station, but greater than one-quarter mile, a density bonus of ten percent is allowed.

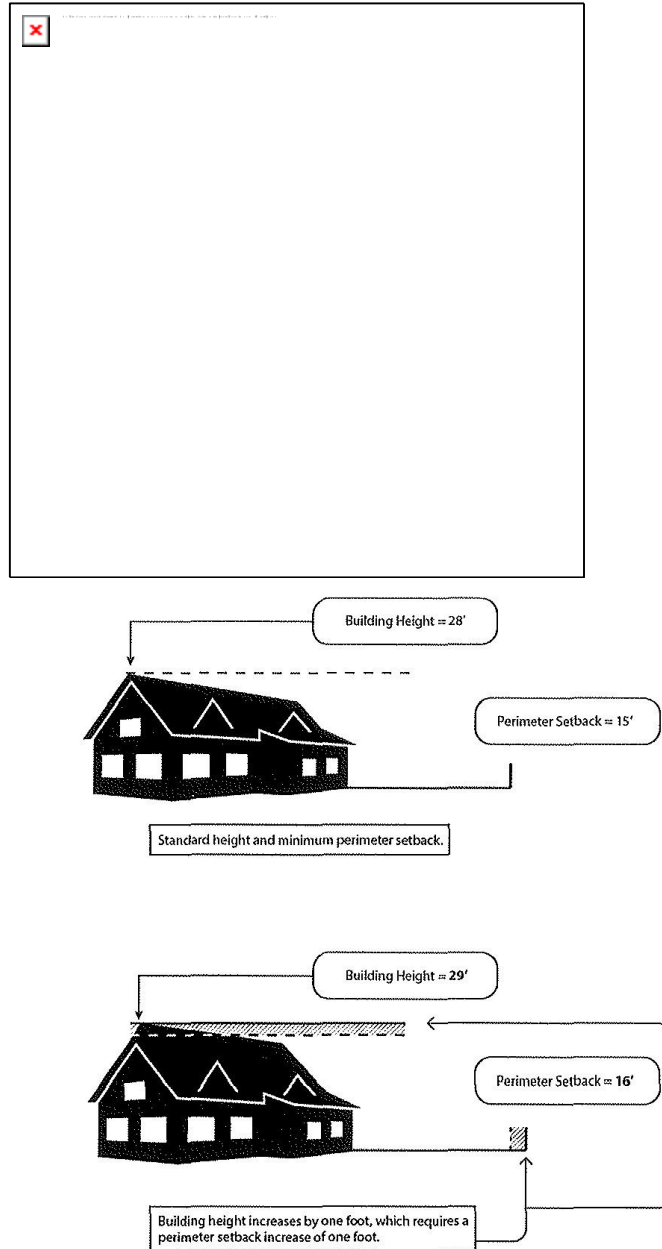
b. Maximum Height. For the purpose of this chapter, building height is to be measured from the lowest point of original grade to the highest ridge.

(1) For any PUD adjacent to an R-1, R-2, R-4, A-1, or A-2 zone ("residential zone"), the maximum height for structures on the perimeter of the PUD adjoining said zones shall be twenty-eight feet. The maximum height of all other structures in such a PUD shall be thirty-five feet. PUDs with one building only, are allowed a rooftop garden or patio provided the rooftop garden or patio has a minimum setback of seventy-five feet from the property line. For purposes of this chapter, a structure on the perimeter is defined as any structure within fifty feet of the property line of the PUD.

(a) The height of buildings along the perimeter of a planned unit development adjoining a residential zone may be increased to the maximum height allowed in the underlying zone by one foot increments, with each additional one foot height increment requiring an additional one foot in setback from the perimeter (see figure 1 below for graphical rendering).

(2) The height of structures in all other planned unit developments shall conform to the otherwise applicable ordinances.

- (3) At the discretion of the planning commission, height for dwelling structures along corridors as defined in the general plan and not adjoining a residential zone, may be increased by an additional five feet to accommodate a density bonus provided for in this chapter.
- (4) Notwithstanding the above, the planning commission may at its discretion reduce or increase the otherwise stated maximum heights if mitigation is warranted, but only in cases where unusual topographical or other exceptional conditions or circumstances exist, such as the height of surrounding buildings.



**Figure 1.** An illustration of height allowance as described in 11.b.1.a. above when approved by the planning commission, where for every foot increase in height requires a foot increase in minimum setback. This provision is designed to soften the impact to adjacent properties while allowing for increases in height where appropriate.

- c. **Perimeter Setbacks.** Buildings (including covered decks or covered patios, or decks or patios in excess of eighteen inches above existing grade) located on lots on the perimeter (excluding the public frontage defined in Chapter 19.78.040 of the development), shall have not less than a fifteen-foot setback from the perimeter lot line, and shall have a setback from a right-of-way as prescribed by the underlying zone and Chapter 19.77. Otherwise, no specific yard, setback, or lot size requirement is imposed by this chapter. However, the purpose and design objectives of this chapter must be complied with in the final development plan, and the planning commission may require specific setbacks within all or a portion of the development to maintain harmony with the existing character of the neighborhood.
  - d. **Site Calculations.** Specific calculations which address the percentage of open space, impervious versus pervious surfaces, and site improvements shall be submitted by the applicant with all project applications.
  - e. **Traffic Circulation.** Points of primary vehicular access to the development shall be designed to provide smooth traffic flow with controlled turning movements and minimum hazards to vehicular, pedestrian, and bicycle traffic. Adequate emergency vehicle access shall be provided. Internal circulation systems shall include pedestrian paths, and may include bicycle paths, preferably separated from vehicular traffic. Where recreational facilities exist or are planned adjacent to the proposed development, such pedestrian and bicycle paths shall connect to these facilities.
  - f. **Privacy.** Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, walks, barriers, landscaping, and sound reducing construction techniques shall be used as appropriate to enhance the privacy of its occupants, the screening of objectionable views or uses, and the reduction of noise.
  - g. **Sidewalks.** With the exception of forestry zones, as required elements of a development, interior sidewalks shall be installed to serve the units and connect to the public street.
  - h. **Utilities.** All utilities shall be located underground, except as may be provided for in state law. Utility equipment shall be screened from view and preferably, not fronting on a public street.
  - i. **Private outdoor spaces.** Each residential unit shall be required to have an outdoor patio/rear yard space with a minimum of one hundred square feet, or a balcony with a fifty square foot minimum.
12. **Desirable Amenities.** Amenities that are identified in the Brighton Recreation and Open Space Standards Policy shall be installed in accordance with that policy.



Where conflicts exist with this chapter and the Brighton Recreation and Open Space Standards Policy, requirements identified in this chapter shall supersede.

13. Miscellaneous. Installation of xeriscaping is encouraged as an alternative to excessive lawn areas or other landscaping treatments that excessively consume water. Low impact/water retention development techniques are encouraged to manage stormwater onsite including but not limited to planter boxes, rain gardens, and bioswales in the open spaces.

Parking areas, service areas, buffers, entrances, exits, yards, courts, landscaping, graphics, and lighting for both residential and non-residential development shall be designed as integrated portions of the total development and shall project the residential character.

#### **19.78.040 Planned unit development mixed-use.**

In a planned unit development, vertical mixed-use is allowed in zones that allow both residential and commercial and/or office uses, provided it meets the following requirements, in addition to the other requirements in this chapter. For purposes of this section, vertical mixed-use means commercial or office uses sharing the same building as residential uses.

1. The property is abutting or contiguous to a corridor as defined in the general plan, or major or minor arterial ("street").
2. Commercial uses shall only be allowed on the first floor of buildings fronting on the street. Office uses shall only be allowed on the first and second floor of buildings fronting on the street. Entrances to the first floor of these buildings shall front on the street. Windows shall make up at least fifty percent of street-facing facades of these floors. These floors shall have architectural differentiation from the other floors in the building.
3. Parking is not allowed between the building(s) and the street.
4. The front yard setback shall be fifteen feet, except as provided in subsection (E), and the side and rear yards shall be twenty feet minimum. Corner lots are deemed to have two front yards.
5. The front yard setback is the build-to-line. At least fifty percent of the front elevation of the building(s) must be built within ten feet of the build-to-line or as approved by the planning commission. A build-to-line is defined as the line at which construction of a building façade is to occur on a lot, running parallel to the front property line, and ensuring a uniform (or more or less even) building façade line on the street.
6. Landscaping along the street shall comply with this chapter and Chapter 19.77.
7. Signage for commercial or office uses shall be limited to signs on the building(s) that comply with Chapter 19.82.

#### **19.78.050 Maintenance of common facilities.**

1. A development shall be approved subject to the submission and recordation of legal instruments setting forth a plan or manner of permanent care and maintenance of all common open space and other facilities provided in the final development plan.
2. Terms in the final development plan governing maintenance of common open space and other facilities shall comply with applicable provisions of the Utah Condominium Ownership Act, Title 57-8-101, et seq., or the Utah Community Association Act, Title 57-8a-101, et seq.

#### **19.78.060 Review process.**

1. Pre-Submittal Development Review. To help expedite review of a development proposal, prior to submitting a complete application for development, persons interested in undertaking development shall meet with a member(s) of the planning staff for a planner/applicant meeting, to become acquainted with the substantive and procedural requirements of this chapter.
2. Standard Operating Procedure (SOP). Staff creates, revises, and adheres to a development review standard operating procedure, to assist in the management and processing of applications. Applicants are encouraged to obtain a copy of the current SOP from planning and development services staff, and to seek guidance with respect to the review and understanding of the development review SOP from staff.
3. Application. An application for a development must be submitted to planning and development services. As each development application is different and unique, application documents may vary with respect to content and need for specific reports and/or studies. Consultation with staff and examination of the development review SOP will guide the applicant through the review process and identify all submittal documents that will be required to formalize a complete application.
  - a. Site plan that satisfies the requirements of Section 19.78.030(11).
  - b. Landscaping plan. A landscape plan is to be prepared in accordance with Chapter 19.77 of this title. Staff can ask for justification of elements included in the landscape plan.
  - c. Architectural building elevations. The location and floor area of all existing and proposed buildings, structures, and other improvements including heights, types of dwelling units, non-residential structures including commercial facilities, preliminary elevations and architectural renderings of typical structures and improvements, shall be prepared by a licensed architect or other qualified professional.
  - d. Lighting plan.
  - e. Subdivision plat.

#### **19.78.070 Preliminary review.**

When a complete application has been accepted by staff, reviews completed by staff and related agencies, and subsequent comments identified by staff and substantially addressed by the applicant, the application is scheduled for a community council meeting and a public hearing before the appropriate planning commission for their review and decision. Additional adjustments, revisions, or re-submittals may be required during this process to identify all concerns related to conformance with the intent of this chapter. Failure to submit complete and consistent information will result in written notification to the applicant that the review cannot proceed further until all required, necessary, and requested information is submitted.

#### **19.78.080 Planning commission review.**

When preliminary review of the application has been determined to be complete and in compliance with all requirements, the plans and preliminary plat together with all supporting information will be forwarded to the planning commission for review. If the property is to be subdivided, all requirements set forth in Title 18, Subdivisions, must be met.

In accordance with Chapter 19.05.040 and Utah Code § 10-9a-507, the planning commission shall review the proposed development plan to hear and receive public input and to determine if all reasonably anticipated detrimental effects have been substantially mitigated. The planning commission may require additional studies or analyses to enable it to determine how impacts should be addressed and may establish reasonable conditions of approval to address those anticipated impacts, as per Chapter 19.84.060.

#### **19.78.090 Validity of preliminary review.**

1. Once the planning commission determines that preliminary review is complete, the preliminary plat or approved site plan is valid (twelve months for the preliminary plat and twelve months for the site plan). The division director may grant a one-year extension of the preliminary plat or approved site plan, provided the plat still complies with all applicable ordinances.
2. If a PUD subdivision will be recorded in phases, a final plat for the first phase must be recorded within one year of the initial planning commission approval or one-year extension thereof, the validity of the unrecorded portions of the approved preliminary plat will extend for one year from the recording date of the plat for the previous phase. Extensions of time beyond three years from the date of initial approval require review and approval of the planning commission prior to the then current expiration of the preliminary plat.

#### **19.78.100 Post-planning commission approval.**

After completing the preliminary review by the departments, agencies, and planning commission, the applicant shall submit a final site plan and preliminary and final subdivision plats together with all supporting documents which comply with all requirements, corrections, additions, etc. required by the departments, agencies, and planning commission to the planning and development services division (hereinafter known as the "development plan").

1. The planning and development services division, along with the other reviewing departments and agencies, shall review the proposed development plan to verify compliance with all requirements, corrections, additions, etc.
2. After such review, the item may be scheduled for review by the planning commission upon referral by the division director or at the request of the planning commission. The final development plan shall include all of the information required in the preliminary development plan in its finalized detailed form.

#### **19.78.110 Amendments to the development plan.**

The division director or designee may authorize minor changes in the location, siting, or character of buildings and structures if required to resolve an engineering or other technical issue, or other circumstances not identified at the time the final development plan was approved. No change authorized under this section may cause any of the following ("major changes"):

1. A change in the use and/or character of the development.
2. An increase in the overall density and/or intensity of use.
3. An increase of more than five percent in overall coverage of structures.
4. A reduction or change in character of approved open space.
5. A reduction of required off-street parking by more than five percent.
6. A detrimental alteration to the pedestrian, vehicular, bicycle, circulation, or utility networks.
7. A reduction in required street pavement widths.
8. An increase in building height.
9. A decrease in building setback.

Any major changes must be proposed to the planning commission after receipt of a recommendation by planning staff. Proposals under numbers 1. through 9. above require the filing of a new application. Generally speaking, any major changes must be recorded as amendments in accordance with the procedure established for adopting the final development plan.

#### **19.78.120 Failure to begin development.**

If no substantial construction has occurred in the development pursuant to the final development plan within twelve months from final approval, the approved plan shall become null and void and a new development plan and application shall be required for any development on the subject property. The division director, upon a determination of good cause based on evidence submitted by the applicant, may extend the time for beginning construction a maximum period of twelve months for one time only.

#### **19.78.130 Phased planned unit development.**

If the sequence of construction of various portions of the final development plan is to occur in stages, then the open space and/or recreational facilities shall be developed in proportion to the number of dwelling units intended to be developed during any given stage of construction. A phasing plan, including size and order of phases, shall be approved by staff to ensure that individual phases of the development comply with all requirements, including that the open space and/or recreational facilities are installed proportionately with the approved phasing plan.

### **Chapter 19.79 UTILITY AND FACILITY SYSTEM PLACEMENT REGULATIONS** **Sections:**

[19.79.010 Purpose.](#)

[19.79.020 Definitions.](#)

[19.79.030 Systems required to be underground.](#)

[19.79.040 Exemptions.](#)

[19.79.050 Notification of affected property owners.](#)

[19.79.060 Excavation permit required.](#)

#### **19.79.010 Purpose.**

The purpose of the utility and facility system replacement regulations codified in this chapter is to promote the health, safety and general welfare of the citizens of Brighton; preserve and protect existing aesthetics, property values, and quality of life within residential and other areas of Brighton; and provide notice to Brighton and affected property owners of new or upgraded utility or facility systems to allow an opportunity to determine if sufficient reason exists to require the systems to be installed underground and to determine if funds are available to pay for underground installation.

#### **19.79.020 Definitions.**

As used in this chapter, the following definitions shall apply:

"Accessory equipment" means the portion of the system including equipment sites, transformers, switchgear, pedestals, terminals, meters, buildings (substations), and other similar equipment that is normally installed aboveground in accordance with accepted practices of underground systems.

"Distribution system" means the portion of the system located between: (1) the service drop transformer and the distribution substation for electric service, (2) the service drop and the receive site (headend) for cable television, or (3) the service drop and the transmission system for telephone service.

"Facility company" means a company not regulated by the public service commission that provides a service including but not limited to cable television or telecommunications.

"Service drop" means the portion of the system located between the distribution system and wall of the building or structure occupied or intended to be occupied by a customer.

"System" means all poles, towers, wires, lines, cables, conduits, pipes and accessory equipment providing service such as electricity, telephone, telegraph, cable television, gas, water, sewer, steam or petroleum including service drops, distribution system, transmission system, and accessory equipment.

"Transmission system" means the portion of the system which is used to carry the service from points of generation or switching centers to distribution points such as electrical substations and equipment sites. In the case of electrical service, a transmission system is defined as carrying a voltage of forty-six KV or more.

"Utility company" means a company regulated by the public service commission that provides a service including but not limited to electricity, telephone, or gas.

#### **19.79.030 Systems required to be underground.**

Unless exempted under Section 19.79.040 of this chapter, the following systems may be required to be installed underground:

- A. All new transmission systems installed after the effective date of the ordinance codified in this chapter.
- B. All upgraded transmission systems which would increase the height of poles from less than sixty-five feet to more than sixty-five feet above existing grade.

#### **19.79.040 Exemptions.**

The following systems are exempt from the provisions of Section 19.79.030 of this chapter:

- A. Except as provided in Section 19.79.030(B) of this chapter, this chapter does not require the burial of any existing aboveground systems, nor does it prohibit or restrict the repair, relocation, maintenance, or replacement of any existing systems.

- B. Aboveground installation of the following systems is permitted, subject to compliance with all other applicable statutes, ordinances, and regulations:
  - 1. New service drops and/or distribution lines where service is available from existing aboveground systems;
  - 2. Temporary systems required for construction projects not to exceed a period of twelve months;
  - 3. Street light poles, light rail overhead catenary, wireless telecommunications towers, and accessory equipment;
  - 4. Transmission systems installed in the two main north-south transmission corridors, as identified on the map entitled "main north-south electrical transmission corridors" on file with the planning and development services division.
- C. In cases where unusual topographical, aesthetic, or other exceptional conditions or circumstances exist such that the installation of a system would have minimal visual, health, or safety impact on the public, variations or exceptions to the requirements of this chapter may be approved by Brighton mayor or designee; provided, that the variations and exceptions are consistent with the purposes of this chapter.
- D. In cases where Brighton mayor or designee determines that insufficient funds are available to pay for the incremental costs of underground installation of a system or determines that the public benefit to be derived from underground installation is not cost effective or is otherwise not in the public interest:
  - 1. Brighton mayor or designee shall give notice to the utility or facility company that Brighton will not require the underground installation and will not pay the incremental costs of underground installation of the system:
    - a. Within ninety days after notice is given under Section 19.79.050 of this chapter in the case of a new transmission system; and
    - b. Within sixty days after notice is given under Section 19.79.050 of this chapter in the case of a new distribution system or an upgraded transmission system which would increase the height of poles from less than sixty-five feet to more than sixty-five feet above existing grade.
  - 2. If Brighton mayor or designee has not given notice to the utility or facility company regarding underground installation as provided in subsection (D)(1) of this section it shall be deemed that Brighton mayor has determined that insufficient funds are available to pay for the incremental costs of underground installation or has determined that the public benefit to be derived from underground installation is otherwise not in the public interest.

**19.79.050 Notification of affected property owners.**

Prior to beginning a project involving the installation or upgrading of four or more poles, a utility/facility company providing electrical power for general consumption shall

send written notification of the project to all adjacent property owners and the director of public works. The purpose of such notification is to allow Brighton and potentially affected property owners to determine whether there are reasons to require the underground installation of the system, to determine whether sufficient funds are available to pay the incremental costs of underground installation of the new or upgraded system, and provide Brighton the opportunity to meet with the company to discuss the project. Such notification shall include a full description of the project including, but not limited to: (1) the need for the project, (2) location of the project, (3) height, width, type and general location of poles, and (4) amount of voltage. Failure of property owners to receive notice of the project shall in no way affect the validity of action taken. Failure to reach an agreement within the sixty-day period shall not be grounds for the delay of the project. Notification is not required for emergency projects, relocations, replacements and systems which are exempt under Section 19.79.040 of this chapter except for an exemption resulting after notification under Section 19.79.040(D) of this chapter.

#### **19.79.060 Excavation permit required.**

All underground systems to be installed in the right-of-way of any Brighton road shall be made in accordance with the provisions of Chapter 14.16 of this code, Excavations.

### **Chapter 19.80 OFF-STREET PARKING REQUIREMENTS**

#### **Sections:**

Article I. - General Provisions Article

II. - Parking Requirements Article III. -

Variations and Exceptions

#### **Article I. General Provisions**

[19.80.010 Purpose.](#)

[19.80.020 Off-street parking required.](#)

[19.80.030 Specifications.](#)

#### **19.80.010 Purpose.**

The purpose of this chapter is to reduce street congestion and traffic hazards in Brighton by incorporating efficient, attractive facilities for off-street parking, loading, and internal automobile and pedestrian circulation as an integral part of every use of land.



#### **19.80.020 Off-street parking required.**

- A. At the time any building or structure is erected, enlarged, increased in capacity, or any use is established, off-street parking shall be provided in accordance with the requirements in this chapter.
- B. Plans Required to Obtain Building Permit. All applications for a building permit shall be accompanied by a site plan showing a parking layout that complies with the provisions of this chapter that shows ingress and egress, loading areas, internal automobile and pedestrian circulation, and landscaping. The plan shall be reviewed and approved by the planning and development services division consistent with the provisions of this chapter. Parking requirements may be calculated separately for each business or land use in a building.

#### **19.80.030 Specifications.**

- A. Parking Stall Size. Each off-street parking space shall be at least nine feet by eighteen feet for diagonal or ninety-degree spaces, or eight by twenty feet for parallel spaces, exclusive of access drives or aisles. Parking stalls adjacent to a column or wall must have an additional two feet of width to accommodate ingress/egress from the vehicle. Access to parking spaces shall be from private roadways and not from public streets.
- B. Parking Lot Policies. Brighton may adopt policies regarding aisle widths, angled parking, and turn-around areas for parking lots, and parking stall sizes for valet parking.
- C. Surfacing. Except for "provisional parking areas" as allowed under Section 19.80.110 of this chapter, any off-street parking area located in an R-, C-, M-, MD-, or O-R-D zone shall be surfaced with an asphaltic or portland cement or other binder pavement, so as to provide a durable and dustless surface, shall be so graded and drained as to dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide the orderly and safe loading or unloading and parking and storage of vehicles. Surfacing requirements for parking areas located in FR-, FM-, A-, FA-, and S-1-G zones shall take into account the proposed land use, location of the property, and impact of paved parking.
- D. Maintenance. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots and automobile, farm equipment, or other open-air sales lots, shall be developed and maintained in accordance with the requirements set out in this chapter.
- E. Screening. The sides and rear of any off-street parking area for more than five vehicles which adjoins or faces an institutional use or residential building shall be effectively screened by a masonry wall or solid visual barrier fence unless otherwise provided for more specifically by the requirements of the zoning district in which such parking area is located. Such wall or fence shall be not less than six feet in height and shall be maintained in good condition without any advertising thereon.

- F. Landscaping. All parking areas shall contain landscaping in compliance with the provisions of Chapter 19.77 of this title.
- G. Lighting. Lighting used to illuminate any off-street parking area shall be so arranged as to direct light away from adjoining premises and from street traffic. No light source (light bulb, fluorescent tube, or other direct source of light used to illuminate a parking area) shall be visible beyond the property line of any off-street parking area.
- H. Coverage. No off-street parking area shall occupy more than sixty-five percent of the property not occupied by buildings.

## **Article II. Parking Requirements**

[19.80.040 Number of spaces required.](#)

[19.80.050 Off-street loading.](#)

[19.80.060 Gasoline pump requirements.](#)

### **19.80.040 Number of spaces required.**

- A. Except where variations and exceptions are allowed under Sections 19.80.070 through 19.80.100 of this chapter, a number of parking spaces equal to the sum of the required number of parking spaces for all uses on a property, including multiple uses within the same building, shall be provided. Except in cases where a site-specific traffic study demonstrates a need for additional parking, no parking area for more than twenty stalls shall exceed the number of stalls required below unless the additional parking is installed as "provisional parking" under Section 19.80.110 of this chapter. The number of off-street parking spaces required shall be as follows:
  - 1. Amusement center (arcade), one space per one hundred square feet of floor area;
  - 2. Automobile or machinery sales and service garages, two spaces plus one space for each four hundred square feet of floor area;
  - 3. Banks, post offices, business and professional offices, one space for each two hundred fifty square feet of gross floor area;
  - 4. Bowling alleys, five for each alley;
  - 5. Churches, one space for each six and one-half feet of linear pew or three and one-half seats in an auditorium; provided, however, that where a church building is designed or intended to be used by two congregations at the same time, one and one-half parking spaces shall be provided for each three and one-half seats in the auditorium. For buildings designed or intended to be used for conferences or other special meetings involving more than the regular congregations, additional parking shall be required as determined by the planning commission;
  - 6. Dancehalls and assembly halls without fixed seats, exhibition halls, except church assembly rooms in conjunction with auditorium, three spaces for each one hundred square feet of floor area used by assembly or dancing;

7. Day care center for children, four spaces plus one space per five hundred square feet of floor area;
8. Dormitory building, one space for each tenant;
9. Dwellings, multiple, two spaces for each dwelling unit. In multi-family developments and dwelling groups where private covered parking is utilized, additional parking for guests shall be required. The planning commission shall determine the amount of guest parking required to meet the parking needs of each development;
10. Dwellings, single-family, two spaces for each dwelling unit. For single-family dwellings, the parking spaces may be arranged one behind the other;
11. Funeral homes, mortuaries, reception centers, one space for each forty square feet of floor area in assembly room;
12. Furniture and appliance stores, household equipment or furniture repair shop, one space for each six hundred square feet of gross leasable area;
13. Hospitals and convalescent hospitals, two spaces per bed for the total capacity of building;
14. Hotels, motels and motor hotels, one space for each living or sleeping unit, plus parking for all accessory uses as defined in this title;
15. Indoor firearms and/or archery range, two spaces per shooting point;
16. Manufacturing plants, research or testing laboratories, bottling plants, one space for each person employed on the highest employment shift;
17. Medical or dental clinics, six spaces for each doctor's office;
18. Nursing homes, four spaces plus one space per each five beds;
19. Recreation, four spaces per court for tennis courts, three spaces per court for racquetball courts, two spaces per court for squash courts;
20. Residential health care facility:
  - a. Four spaces for facilities with five or less residents, the parking spaces may be arranged one behind the other,
  - b. Four spaces plus one space per each five beds;
21. Restaurants or private nonprofit clubs, one space for each two and one-half seats or three spaces per one hundred square feet of floor area, whichever is greater;
22. Retail stores, shops, etc., except as provided in this subsection, one space for each two hundred fifty square feet of gross floor area;
23. Rooming and lodging homes, one space for each tenant;
24. Schools, one space for each three and one-half seats in an auditorium, plus one space for each administrator and faculty;
25. Shopping centers and other multi-tenant retail buildings, five spaces for each one thousand square feet of gross leasable area;

26. Sports arenas, auditoriums, theaters, assembly halls and meeting rooms, one space for each three and one-half seats of maximum seating capacity;
  27. Trailer sales, five spaces minimum, or five percent of the total site area excluding the landscaped areas, whichever is greater;
  28. Wholesale establishments, warehouses, service and maintenance centers and communication equipment buildings, one space for each person employed during the highest employment shift;
  29. Bed and breakfast homestay, two spaces for each dwelling unit plus one space for each guestroom;
  30. Short-term rental, two spaces per dwelling unit plus one additional space for each bedroom exceeding two bedrooms. For buildings with two dwelling units or less, the third and fourth spaces, when required, can be in tandem with the first two spaces required;
  31. Bed and breakfast inn, one space for each person employed on the highest employment shift, plus one space for every guestroom, plus parking for all accessory uses defined in this title;
  32. Residential facility for elderly persons, two spaces for the dwelling unit plus two spaces for visitors, the parking spaces may be arranged one behind the other;
  33. Apartments for elderly persons, one space for each dwelling unit;
  34. Outdoor display and sales, including garden centers, nurseries, lumber yards, building materials sales yards; one space for each one thousand square feet of display and sales area.
- B. Number of Parking Spaces for Uses Not Specified. For any use of buildings not specified in this section, or for uses of a seasonal or temporary nature, the off-street parking requirement shall be determined by the division director being guided, where appropriate, by comparable ordinances from other jurisdictions, accepted planning industry standards, or the requirements set forth in this section for uses or buildings which, in the opinion of the division director, are similar to the use or building under consideration.
- C. Accessible Parking Spaces. For nonresidential parking areas, the accessible parking spaces required to satisfy the Americans with Disabilities Act shall be provided within the total number of stalls required above. For multi-family residential developments, the accessible stalls shall be provided in addition to the number of stalls required above.
- D. Bicycle Parking. To encourage the use of bicycles for personal transportation as an alternative to motor vehicles, requirements are established herein to provide bicycle parking at regional, community, neighborhood, and other transportation and travel destinations.
1. Bicycle parking facilities shall be provided for any new commercial, office, manufacturing, industrial, multi-family residential, recreational, public and/or quasi-public use for which automobile parking is required; or for modification or

change of any use listed above that results in the need for additional automobile parking facilities, as follows:

- a. The number of bicycle parking spaces required shall be equal to five percent of the vehicular parking spaces required for such use, with a minimum requirement of two spaces, and a maximum requirement of twelve.
  - b. Bicycle parking spaces shall be:
    - i. Located on the same lot as the principal use;
    - ii. Located and designed to prevent damage to bicycles by cars;
    - iii. Located so as not to interfere with pedestrian movements;
    - iv. Located in a highly visible, well-lighted area that is located near entrance(s) to the building;
    - v. Located to provide safe access from the spaces to the public right-of-way or bicycle lane;
    - vi. Designed to accommodate a range of bicycle shapes and sizes, and to allow the frame and wheel(s) of each bicycle to be supported and secured against theft without interfering with adjacent bicycles;
    - vii. Anchored to resist removal by vandalism and resistant to rust or corrosion.
2. Bicycle parking spaces which meet the above requirements may be located within the building.
  3. The proposed bicycle parking spaces shall be clearly shown on the site plan indicating location and type.

#### **19.80.050 Off-street loading.**

For every building or part thereof not provided with docking facilities which has a gross floor area of ten thousand square feet or more, and which is to be occupied by a commercial or industrial use to or from which delivery of materials or merchandise is regularly made by motor vehicle, there shall be provided and maintained on the same lot with such building at least one off-street loading space, plus one additional space for each additional twenty thousand square feet or major fraction thereof. Each loading space shall be not less than ten feet in width, twenty-five feet in length, and fourteen feet in height. Such space may occupy any required yard or court only if it is enclosed by a brick or stone wall not less than six feet in height.

#### **19.80.060 Gasoline pump requirements.**

- A. Gasoline pumps shall be set back not less than twenty-four feet from any street property line, and not less than thirty feet from any residential zone boundary line. If the pump island is set at an angle on the property, it shall be so located that automobiles stopped for service will not extend over the property line.

- B. Canopies constructed to provide a weather shield over gasoline pump islands shall be set back not less than six feet from any street line and not less than ten feet from any residential zone boundary.

### **Article III. Variations and Exceptions**

[19.80.070 Valet parking program.](#)

[19.80.080 Shared parking.](#)

[19.80.090 Planning commission exceptions.](#)

[19.80.100 Community parking credits.](#)

[19.80.110 Provisional parking.](#)

#### **19.80.070 Valet parking program.**

- A. A valet parking program is defined as a parking plan which has personnel retained to assist parking at a drop-off area and exclusively controls the parking of vehicles into valet spaces until they are returned to a pick-up area. The plan shall identify the following
  - 1. The location of parking spaces, pick-up areas, drop-off areas, and egress/ingress;
  - 2. The involvement of personnel; and
  - 3. General operating procedures.
- B. Eight percent of the required parking spaces shall be reserved as self-parking spaces and shall be indicated as such on the plan. Self-parking spaces shall meet the requirements of Section 19.80.030.

#### **19.80.080 Shared parking.**

- A. Notwithstanding any other parking requirements provided in this chapter, when different land uses occupy the same or adjacent lot(s) in the C-V. zone, the total number of off-street parking spaces required for each use (see Section 19.80.040 of this chapter) may be combined and shared upon approval as provided herein. A proposal for sharing of off-street parking shall be presented to the planning and development services division director for site plan review and approval. Conditional use applications which require planning commission approval, and for which shared parking is being proposed as part of the application, must have planning commission approval for the shared parking.
- B. In determining the total requirements for shared parking facilities, the division director or planning commission shall use Table 19.80.080(a), set out below, according to the following guidelines:

1. For each applicable general land use category, calculate the number of spaces required for a use as if it were the only use (refer to the schedule of minimum off-street parking requirements).
  2. Use the figures for each individual land use to calculate the number of spaces required for that use for each time period specified in the table (six time periods per use).
  3. For each time period, add the number of spaces required for all applicable land uses to obtain a grand total for each of the six time periods.
  4. Select the time period with the highest total parking requirement and use that as the total number of parking spaces required for the site on a shared parking basis.
- C. For uses not listed in Table 19.80.080(a), the division director shall determine the required parking for the six time periods.

**Table 19.80.080(a)**

General Land Use Category	Weekdays			Weekends		
	12:00 a.m.— 7:00 a.m.	7:00 a.m.— 6:00 p.m.	6:00 p.m.— 12:00 a.m.	12:00 a.m.— 7:00 a.m.	7:00 a.m.— 6:00 p.m.	6:00 p.m.— 12:00 a.m.
Office & Industrial	5%	100%	5%	0%	5%	0%
Retail	5%	100%	80%	5%	100%	60%
Restaurant	50%	70%	100%	70%	50%	100%
Hotel	100%	65%	100%	100%	65%	100%
Residential	100%	50%	80%	100%	75%	75%
Theater/entertainment	5%	20%	100%	5%	50%	100%
Place of worship	0%	30%	50%	0%	100%	75%

#### **19.80.090 Planning commission exceptions.**

Upon a finding by the planning commission that a proposed site plan is in harmony with the general plan of the community in which it is located and that effective tools have been employed in the creation of a transit oriented development, community re-

development project, or walkable community project, the planning commission may reduce the number of required parking stalls for any proposed development. In approving any such reduction, the planning commission may use such tools as: recommendations from the planning and development services staff a site-specific traffic study conducted by a qualified engineering firm, American Planning Association guidelines, Envision Utah guidelines, and/or Urban Land Institute guidelines.

#### **19.80.100 Community parking credits.**

Upon a finding by the planning commission for conditional uses or the planning and development services division director for permitted uses, that parking is available either on public property or on property leased by a public entity for community parking, which parking is conveniently located to a particular land use, credits may be given toward the parking requirement for said land use. In cases where multiple businesses or land uses qualify to use the same parking spaces for community parking credits, the credits shall be pro-rated for each land use. In calculating the pro-rated community parking credits, the planning commission or division director shall consider such factors as: the amount of frontage a property has on the street, the total number of parking stalls required for a given land use, and the potential for future development in the immediate vicinity creating further demand for parking spaces. The planning commission or division director may also use Table 19.80.080(a) for land uses in different general categories to consider shared community parking.

#### **19.80.110 Provisional parking.**

"Provisional parking" is defined as an area or areas within a parking lot where parking spaces which are shown on the approved parking plan are landscaped rather than paved. The following conditions apply to provisional parking areas:

1. Provisional parking spaces must be shown on the site plan as complying with the parking stall size requirements of this chapter as well as the maneuverability and aisle requirements of planning commission policy.
2. Provisional parking spaces may be landscaped in such a way that they can be used for parking on a seasonal or temporary basis.
3. After one year's time from the issuance of the land use permit, a property owner may request a review of the provisional parking. Upon a finding by the planning commission for conditional uses or the division director of planning and development services for permitted uses that the additional parking is needed, approval shall be granted for the provisional parking to be paved.
4. The planning commission may set conditions of approval as part of any conditional use permit that utilizes provisional parking as allowed under Section 19.84.050 to provide for monitoring and future review of the parking plan.

### **Chapter 19.81 HIGHWAY NOISE ABATEMENT MEASURES**

#### **Sections:**



[19.81.010 Findings.](#)

[19.81.020 Purpose of provisions.](#)

[19.81.030 Development of property adjacent to certain state highways.](#)

[19.81.040 Responsibility of owner or developer.](#)

#### **19.81.010 Findings.**

- A. The Federal Highway Administration (FHWA) regulation entitled "Procedures for Abatement of Highway Traffic Noise and Construction Noise" (23 CFR 772) provides procedures for noise studies and noise abatement measures to help protect the public health and welfare, supplies noise abatement criteria, and establishes requirements for information to be given to local officials for use in the planning and design of federal-aid highways. The Utah Department of Transportation (UDOT) policy entitled "Noise Abatement" (Policy #08-111), adopted pursuant to 23 CFR 772, addresses highway noise impacts and sets forth conditions under which noise abatement projects may be approved and constructed in the state of Utah with the use of federal-aid highway participation funds.
- B. In order for UDOT to obtain participation funds from FHWA for proposed federal-aid highway projects for noise abatement measures on existing highways (known as "Type II Projects"), local authorities are required to take measures "...to exercise land use control over the remaining undeveloped lands adjacent to highways in the local jurisdiction to prevent further development of incompatible activities." 23 CFR 772.13(b).
- C. In an effort to prevent future traffic noise impacts on currently undeveloped lands, 23 CFR 772.15 requires that highway agencies shall inform local officials within whose jurisdiction the highway project is located of the following:
  - 1. The best estimation of future noise levels (for various distances from the highway improvement) for both developed and undeveloped lands or properties in the immediate vicinity of the project;
  - 2. Information that may be useful to local communities to protect future land development from becoming incompatible with anticipated highway noise levels; and
  - 3. Eligibility for federal-aid participation for Type II Projects as described in 23 CFR 772.13(b).
- D. In order for Brighton residents to benefit from the development and implementation of Type II Projects for noise abatement along eligible highways within its boundaries, it is found to be in Brighton's best interests to comply with federal regulation and state policy by adopting this zoning ordinance codified in this chapter.

### **19.81.020 Purpose of provisions.**

The ordinance codified in this chapter is enacted for the purpose of promoting the health, safety and general welfare of the citizens of Brighton by minimizing the potential adverse effects of highway traffic noise and by complying with state and federal requirements for highway traffic noise abatement projects.

### **19.81.030 Development of property adjacent to certain state highways.**

Consistent with the requirements of 23 CFR 772 and UDOT's Noise Abatement Policy #08-111, no remaining undeveloped lands located in the Town of Brighton adjacent to Type II Projects (freeways and expressways) shall be developed for any use or activity which is incompatible with highway traffic noise levels, unless the development of such lands shall include appropriate noise abatement measures determined necessary and appropriate by Brighton and UDOT. A use or activity shall be deemed incompatible with highway traffic noise levels when a "traffic noise impact" occurs, as determined under the following formula:

#### **Noise Abatement Criteria**

Hourly A-Weighted Sound Level—decibels (dBA)

Leq shown are maximum levels allowed:

Activity Category	Leq(h)	Description of Activity Category
A	57 (exterior)	Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.
B	67 (exterior)	Picnic areas, fixed recreation areas, playgrounds, active sports areas, parks, residences, motels, hotels, schools, churches, libraries, and hospitals.
C	72 (exterior)	Cemeteries, commercial areas, industrial areas, office buildings, and other developed lands, properties or activities not included in Categories A or B above.
D	—	Undeveloped lands (including roadside facilities and dispersed recreation).

E	52 (interior)	Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, and auditoriums.
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#### **19.81.040 Responsibility of owner or developer.**

The owner or developer of land to be subdivided, improved or developed adjacent to Type II Projects shall be responsible to comply with any and all requirements for noise abatement measures imposed pursuant to the provisions of this chapter. Failure to so comply shall constitute a violation of Brighton ordinance and shall be punishable as a misdemeanor as provided in Chapter 1.12 of this title.

### **Chapter 19.82 SIGNS**

#### **Sections:**

[19.82.010 Purpose.](#)

[19.82.020 Definitions.](#)

[19.82.025 Noncommercial signs.](#)

[19.82.030 Interpretation.](#)

[19.82.040 Conformity required.](#)

[19.82.050 Exceptions.](#)

[19.82.060 Comprehensive sign plan.](#)

[19.82.070 Building permit exceptions.](#)

[19.82.080 Size computation.](#)

[19.82.085 Height of ground signs.](#)

[19.82.090 Imprint of ownership required.](#)

[19.82.100 Off-premises sign requirements.](#)

[19.82.110 Visibility at intersections.](#)

[19.82.120 Signs on public property.](#)

[19.82.130 Lighted signs.](#)

[19.82.135 Electronic message center requirements for on-premises signs.](#)

[19.82.140 Mobile sign.](#)

[19.82.150 Traffic hazard prohibited.](#)

[19.82.160 Maintenance—Removal of sign.](#)

[19.82.170 Prohibited signs.](#)

[19.82.180 Action to remove or abate violation.](#)

[19.82.185 Off-premises signs—Billboards.](#)

[19.82.190 On-premises signs allowed in zoning districts.](#)

#### **19.82.010 Purpose.**

The purpose of this chapter is to eliminate excessive and confusing sign displays that create potential hazards to motorists, pedestrians, property, and also to maintain a responsible communication system by setting requirements for the location, size, height and lighting of signs that will be compatible with adjoining land uses, architecture and landscape, and that will preserve and improve the aesthetic values and visual qualities of Brighton.

#### **19.82.020 Definitions.**

As used in this chapter:

"A-frame sign" means temporary and/or movable sign constructed with two sides attached at the top so as to allow the sign to stand in an upright position.

"Advertising sign." See "off-premises sign."

"Alterations" means a change or rearrangement in the structural parts or design whether by extending on a side, by increasing in area or height, or by relocating or change in position.

"Animated sign" means a sign which induces motion or rotation of any part by mechanical, or artificial means, or subdued color changes.

"Animation" means simulated movement created by the display of a series of pictures or images, creating the illusion of movement.

"Awning sign" means a sign designed in awning form that is an illuminated or nonilluminated space frame structure attached to a building or other permanent structure.

"Balloon sign" means advertisement supported by a balloon anchored to the premises where the advertised use is conducted, product or commodity sold, service performed, or business name is located.

"Beacon light" means:

- a. Any light with one or more beams, capable of being directed in any direction or directions, or capable of being revolved automatically; or
- b. A fixed or flashing high-intensity light, such as a spotlight, a floodlight, or a strobe light.
- c. "Beacon light" shall not include searchlights.

"Billboard bank" means an accounting system established by Brighton to keep track of the number of billboard signs and the square footage of each billboard sign removed pursuant to Section 19.82.185 of this chapter.

"Billboard credit" means an entry into a billboard owner's billboard bank account that indicates the number of billboard sign locations and the square footage of each billboard sign.

"Billboard owner" means the owner of a billboard in the Town of Brighton.

"Billboard sign" means an off-premises advertising sign.

"Business sign" means an on-premises sign.

"Construction sign" means a sign identifying an existing or proposed development project which may contain the name of the project, name and address of construction firms, architects, engineers, developers, etc.

"Dissolve" means an image transition effect accomplished by varying the image intensity or pattern, where the first image gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the subsequent image.

"Electronic message center" or "EMC" means a mechanism or device which uses a combination of lights, or lighted or unlighted panels which are controlled electrically and electronically to produce words, symbols, pictures or messages which may change within a given panel area.

"Embellishment, cut-out or extension" means an extension of the billboard resulting in increased square footage as part of an artistic design to convey a specific message or advertisement.

"Existing billboard" means a billboard that is either constructed, or for which an application for a land use permit was received and approved by the planning and development services division and state authorities where necessary, prior to May 18, 2004. Billboards that have received prior approval from Brighton at a particular location must be approved by the state by June 2, 2005. If no state approval is given, Brighton approval shall expire on said date and the permit shall become null and void.

"Fade" means an image transition effect accomplished by varying the intensity of the image, where the first image gradually reduces intensity to the point of not being legible and the subsequent image gradually increases intensity to the point of legibility.

"Flashing sign" means a sign which has or appears to have motion or rotation of the lighting elements or displays flashing or intermittent light.

"Flat sign" means a sign erected parallel to and attached to the outside wall of a building and extending not more than twenty-four inches from such wall with messages or copy on the face side only.

"Floodlighted sign" means a sign made legible in the absence of daylight by devices which reflect or project light upon it.

"Footcandle" means the English unit of measurement for illuminance, which is equal to one lumen, incident upon an area of one foot.

"Ground sign" means a sign supported by a fixed permanent frame support in the ground.

"Illuminance" means the photometric quantity most closely associated with the perception of brightness and a measurement of the intensity of light falling on a surface at a given distance from the light source.

"Illuminated sign" means a sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes.

"Image" means the display of text, numbers or the likeness of an object or living thing of any type on an EMC.

"Image display duration" means the period of time that an image remains static.

"Image transition duration" means the period of time in which one image changes to another on an electronic message center.

"Interior sign" means a sign located within a building so as to be primarily visible only from within the building in which the sign is located.

"Mobile sign" means a sign mounted on trailer or frame, lighted or unlighted, which is not permanently attached to a structure or the ground.

"Monument sign" means a sign which is incorporated into the landscape or architectural design scheme and displaying the name of uses or buildings.

"Nameplate sign" means a sign indicating the name and/or occupation of a person legally occupying the premises or indicating a legal home occupation thereon.

"Nonconforming billboard" means an existing billboard that is located in a zoning district or otherwise situated in a way that is not permitted by the provisions of this chapter.

"Nonconforming sign or sign structure" means a sign or sign structure or portion thereof lawfully existing at the effective date of this chapter or any amendment hereto which does not conform to all height, area, yard, spacing, animation, lighting, use or other regulations prescribed in the zone in which it is located after the effective date of this chapter or any amendment hereto.

"Off-premises sign" means a sign directing attention to a use, product, commodity or service not related to the premises upon which the sign is located.

"On-premises sign" means a sign directing attention to a use conducted, product or commodity sold, service performed or business name upon the premises on which it is located.

"Overhanging sign" means a sign which projects twelve inches or more over the roof of a building.

"Pedestal sign" means a temporary and/or movable sign supported by a column(s) and a base so as to allow the sign to stand in an upright position.

"Political sign" means a sign advertising a candidate or candidates for public elective office, or a political party, or a sign urging a particular vote on a public issue decided by ballot.

"Projecting sign" means a sign attached to a building or canopy and extending in whole or part more than twenty-four inches beyond any wall of the building or canopy.

"Promotional sign board" means a permanently attached changeable copy sign not exceeding twenty square feet per face with one or two faces back to back for the display of promotional items offered for sale on the premises.

"Property sign" means a sign related to the property upon which it is located and offering such information as address, name of occupant for residential uses, sale or lease of the property, warning against trespassing, any hazard, or other danger on the property.

"Roof sign" means a sign which is erected partly or wholly on the roof of the building. Notwithstanding the foregoing, a sign structure having main supports embedded in the ground shall not be considered to be a roof sign even if the sign's supports pass through a roof, canopy or parapet of a building.

"Scintillate" or "scintillating" means light flashes, light sparkling, light starbursts, light twinkling, light pulsating or any other image transition effect or animation in which an image instantly and repeatedly changes for the purpose of attracting attention.

"Service sign" means a sign that is incidental to a use lawfully occupying the property upon which the sign is located and which sign is necessary to provide information to the public, such as direction to parking lots, location of restrooms, entrance and exits, etc. A service sign shall also include signs providing information about sale of agricultural products produced upon the premises. A business trade mark or logo may appear on the sign provided it is secondary to the information portion of the sign.

"Sign" means and includes every advertising message, announcement, declaration, demonstration, display, illustration, insignia surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product or service. "Sign" also includes the sign structure supports, lighting system and any attachments, ornaments or other features used to draw the attention of observers.

"Sign area" means the area of a sign that is used for display purposes, excluding the minimum frame and supports. In computing sign area, only one side of a back-to-back or double-faced sign shall be computed when signs are parallel or diverge from a common edge by an angle of not more than forty-five degrees.

In relation to signs that do not have a frame or a separate background, sign area shall be computed on the basis of the least rectilinear line with a maximum of eight sides, triangle or circle large enough to frame the display.

Sign areas in the shape of a sphere, prism, cylinder, cone, pyramid, square or other such shapes shall be computed as one-half of the total surface area.

"Sign maintenance" means that signs shall be maintained in a safe, presentable and good condition, including the replacement of defective parts, repainting, cleaning and other acts required for the maintenance of the sign.

"Sign setback" means the minimum distance that any portion of a sign or sign structure shall be from any street right-of-way line and yard line coterminous with a street.

"Sign structure" means anything constructed or erected supporting a sign which requires location on or below the ground or attached to something having location on or below the ground.

"Snipe sign" means a sign which is attached to a public utility pole, fixture poles, canopy supports, or the supports for another sign.

"Static" means no motion of any type or form.

"Temporary sign," as regulated by this title, shall include any sign, banner, pennant, valance or advertising display constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed out of doors for a short period of time.

"Time and temperature device" means any mechanism that displays the time and/or temperature but does not display any commercial advertising or identification.

"Video" means simulated movement created by the display of a series of images creating the illusion of continuous movement.

"Wall sign" means a sign that is either painted on a wall or its facing by not having a sign frame or separation from the wall or facing.

"Window sign" means a sign permanently attached and located within a building so as to be visible through a window or door outside of the building.

#### **19.82.025 Noncommercial signs.**

Any sign authorized under this chapter is allowed to contain noncommercial copy in lieu of any permissible copy.

#### **19.82.030 Interpretation.**

- A. Properties divided by public streets are not adjacent.
- B. The sign requirements contained in this chapter are declared to be the maximum allowable.
- C. Sign types not specifically allowed as set forth within this chapter shall be prohibited.
- D. Where other ordinances are in conflict with the provisions of this chapter, the most restrictive ordinance shall apply.



#### **19.82.040 Conformity required.**

- A. Except as provided in this title, a sign shall not be erected, raised, moved, placed, reconstructed, extended, enlarged or altered, unless in conformity with the regulations specified in this chapter.
- B. A nonconforming sign shall not be reconstructed, raised, moved, placed, extended or enlarged unless the sign is changed so as to conform to all provisions of this title. Alterations shall also mean the changing of the text or message that the sign is conveying from one use of the premises to another use of the premises and the changing of the ownership of the sign when that ownership necessitates a change in the text or message of the sign. Alterations shall not be interpreted to include changing the text or copy of electronic message centers, off-premises advertising signs, theater signs, outdoor bulletin or other similar signs which are designed to accommodate changeable copy.

#### **19.82.050 Exceptions.**

- A. When a parcel of land is five acres or larger, the planning commission may consider an on-premises sign proposal for a development on such parcel that is less restrictive than the regulations set forth in this chapter, as a conditional use providing there is a determination that the proposed sign exceptions are:
  - 1. Not in conflict with the purpose of this chapter;
  - 2. In architectural harmony with the development and other buildings and uses adjacent to the development.
- B. Signs not regulated by this chapter:
  - 1. On-premises advertising signs that are attached to windows or walls and are clearly of a temporary nature, which promote specific sales;
  - 2. Signs which are associated with school or church events and functions, which are clearly of a temporary nature;
  - 3. Interior signs;
  - 4. Time and temperature devices;
  - 5. Searchlights.

#### **19.82.060 Comprehensive sign plan.**

When an application for the first permit (building permit or conditional use permit) on a parcel of ground is submitted to Brighton, it shall be accompanied by a complete comprehensive sign plan for all existing, proposed or future signs on the parcel of ground.

#### **19.82.070 Building permit exceptions.**

Building permits are required for signs except for property signs, political signs and nameplates conforming to the provisions of this chapter. (See Section 19.82.050(B).)

#### **19.82.080 Size computation.**

- A. The following shall be used when calculating sign sizes: When more than one use occupies a lot, the frontage may be used to calculate the sign size for one total ground or projecting sign, not for each use. The total may then be divided between the uses. There may be any number of flat or wall signs, provided their total does not exceed the percentage of wall area coverage allowed.
- B. A property line which abuts a nonaccess freeway, road, street or right-of-way may not be used in computing sign area.

#### **19.82.085 Height of ground signs.**

The height of ground signs, except as otherwise specified in this chapter, shall be measured from the grade at the property line of the yard in which the sign is located, but shall not exceed the height allowed in the zone.

#### **19.82.090 Imprint of ownership required.**

The imprint of the sign owner and sign erector of all signs shall be in plain and public view.

#### **19.82.100 Off-premises sign requirements.**

Off-premises signs erected along the interstate or the primary highway system as defined by the state shall conform with the provisions of the Utah Outdoor Advertising Act.

#### **19.82.110 Visibility at intersections.**

- A. There shall be a minimum clearance of ten feet between the ground and any part of a projecting sign or ground sign, as measured from the grade of the intersecting streets and located within the clear view of an intersection, which is a triangular area formed by the street property lines and a line connecting them at points forty feet from the intersection of the street lines. Any portion of a sign structure within the clear view of an intersection and nearer the ground than ten feet may not exceed ten inches in width, thickness or diameter.
- B. A service sign located within the clear view of an intersection shall not exceed two feet in height.

#### **19.82.120 Signs on public property.**

No sign shall be located on publicly owned land or inside street rights-of-way except signs required and erected by permission of an authorized public agency. Signs shall include, but not be limited to, handbills, posters, advertisements or notices that are fastened, placed, posted, painted or attached in any way upon any curbstone, lamppost, telephone pole, telegraph pole, electric light or power pole, hydrant, bridge, tree, rock, sidewalk or street.

#### **19.82.130 Lighted signs.**

- A. A lighted sign shall not be installed which permits the light to penetrate beyond the property in such a manner as to annoy or interfere with the use of adjacent properties.
- B. Such lights alleged to violate subsection A of this section by the adjacent property owners or development services division director shall be subject to a public hearing before the planning commission as to the validity of the alleged violation. If such light is determined to be in violation, the owner of the light shall take appropriate, corrective action as directed.

#### **19.82.135 Electronic message center requirements for on-premises signs.**

- A. An electronic message center shall only display static images. An electronic message center shall not display scrolling text, video images, or scintillating images.
- B. The minimum image display duration shall be four seconds.
- C. The maximum image transition duration shall be three seconds. Transitions from one static image shall fade out and fade or dissolve in to the next static image without the use of flashing, animation, or movement.
- D. All electronic message centers shall be equipped with a sensor or other device that automatically determines the ambient illumination and must be programmed to automatically dim according to ambient light conditions. The nighttime illuminance of an electronic message center shall not increase ambient lighting conditions by more than three-tenths footcandles when measured perpendicular to the electronic message center face at a distance determined by the following formula:  
  
$$\text{Measurement Distance (in feet)} = \sqrt{\text{Area of electronic message center face in square feet} \times 100}$$
- E. Where allowed as a conditional use, conditions may be imposed by the planning commission regarding hours of sign operation, sign height, sign size, and/or setbacks from property lines to mitigate impacts on nearby residential properties, to protect critical viewsheds as established in the general plan, or to prevent potential traffic hazards.
- F. Electronic message center conditional use requirements, allowed sign types, and allowable sizes by zone are set forth in Table 19.82.135.

Table 19.82.135  
ELECTRONIC MESSAGE CENTER CONDITIONAL USE REQUIREMENTS,  
ALLOWED SIGN TYPES, AND ALLOWABLE SIZES BY ZONE

	Allowed Sign Types	Conditional or Permitted Use Approval	Allowable EMC Size as a Percentage of Total Allowable Sign Size Per Table 19.82.190 <sup>1</sup>
MD-1, MD-3	Monument	Permitted	50%
	Ground	Conditional use permit required if within 300 linear feet or less of a residence; otherwise, permitted	50%
C-2	Monument	Permitted	70%
	Ground	Conditional use permit required if within 300 linear feet or less of a residence; otherwise, permitted.	50%
C-3	Monument	Permitted	80%
	Ground	Conditional use permit required if within 300 linear feet or less of a residence; otherwise, permitted.	50%
M-1	Monument	Permitted	100%
	Ground	Conditional use permit required if within 300 linear feet or less of a residence; otherwise, permitted.	75%
M-2	Monument	Permitted	100%
	Ground	Conditional use permit required if within 300 linear feet or less of a residence; otherwise, permitted.	75%

All other zones	None	NA	NA
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Table 19.82.135 footnotes:

1. The planning commission may approve an increase in the allowable EMC sign size through the conditional use process as described in Section 19.82.135E.

#### **19.82.140 Mobile sign.**

One mobile sign may be used for each use for a period of sixty days following the issuance of a permit to construct a permanent sign for that use. Upon inspection and approval of the permanent sign, or upon expiration of the sixty-day period, whichever first occurs, the mobile sign must be removed. Mobile signs may not employ animation, flashing lights or intermittent lights.

#### **19.82.150 Traffic hazard prohibited.**

Signs or other advertising structures shall not be erected at the intersection of any streets or driveways in such manner as to obstruct free and clear vision, or at any location where by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal device, or make use of the words "Stop," "Drive-in," "Danger," or any other words, phrases, symbols or characters in such manner as to interfere with, mislead or confuse vehicle operators.

#### **19.82.160 Maintenance—Removal of sign.**

- A. All signs and advertising structures shall be maintained in good condition.
- B. Signs relating to a product no longer available for purchase, or to a business which has closed or moved, shall be removed or the advertising copy removed within thirty days of such unavailability, closure or relocation.
- C. Owners of signs or advertising copy not removed within the required thirty days shall be given written notice sent by certified mail. If not removed by the owner within the thirty-day period, the sign or copy will be removed by Brighton at the expense of the owner.

#### **19.82.170 Prohibited signs.**

Signs not specifically allowed by this chapter are prohibited. Without restricting or limiting the provisions of this section, the following signs are specifically prohibited: A-frame, snipe and pedestal signs.

**19.82.180 Action to remove or abate violation.**

- A. The mayor or attorney shall be empowered to institute any appropriate action or proceeding in any case where any sign is erected, constructed, reconstructed, altered, repaired, converted or maintained, or in any case where any sign is used in violation of any Brighton ordinance, to accomplish the following purposes:
  - 1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
  - 2. To restrain, to correct or abate such violation;
  - 3. To abate and remove unsafe or dangerous signs. If an unsafe or dangerous sign is not repaired or made safe within ten working days after giving notice as provided in subsection B of this section, the building inspector or development services division director may at once abate and remove the sign, and the person having charge, control or benefit of any such sign shall pay to Brighton costs incurred in such removal within thirty calendar days after written notice of the costs is mailed to such person.
- B. Notice by Brighton shall mean written notice sent by certified mail to persons having charge or control or benefit of any sign found by the development services division director to be unsafe.

**19.82.185 Off-premises signs—Billboards.**

- A. Purpose. This section provides for the reasonable regulation of off-premises signs with the intent of enhancing the aesthetics of existing and future billboards, mitigating negative impacts, promoting safety and protecting property values that further the goals and planning policies of Brighton.
- B. Cap on Number of Off-Premises Signs. The number of off-premises signs allowed in Brighton shall be limited to the number of off-premises signs that are existing as defined herein as of May 5, 2021. This cap shall automatically decrease as off-premises signs are annexed into a municipal jurisdiction or removed and not relocated.
- C. Location. Off-premises signs are not permitted within the Town of Brighton unless they are a legal non-conforming use.
- D.

**19.82.190 On-premises signs allowed in zoning districts.**

On-premises signs allowed, by zones, shall be as set out in Table 19.82.190.

**Table 19.82.190****SIGNS ALLOWED, BY ZONES**

ZONE	SIGN	SIZE	HEIGHT	LOCATION	OTHER
(1) All zones	Construction	32 sq. ft. plus 1 sq. ft. for each 10 ft. of frontage over 30 to a maximum of 96 sq. ft. per lot	12 ft. max.	On private property	Sign must be removed 6 months from final building or conditional use inspection that allows occupancy or when 100% of the facilities are occupied, whichever occurs first
		Construction signs located on the development for subdivisions of 5 lots or more, may be 32 sq. ft. plus 2 sq. ft. for each additional lot over 5 to a maximum of 128 sq. ft. total per subdivision	12 ft. max.	On private property	Signs must be removed within 30 days after the last lot is sold
		Signs for subdivisions of 5 lots or more and not located on the development may be 32 sq. ft. plus 1 sq. ft. for each lot over 5 to	12 ft. max.	On private property	All signs must be approved by the planning commission for a period not to exceed one year which may be renewed upon application

		a maximum of 64 sq. ft. per sign			received at least 30 days prior to the previous approval expiration date
		Construction signs for multifamily developments of more than 20 units and not located on the development shall not exceed a maximum of 10 ft. vertical and 20 ft. horizontal	12 ft. max.	On private property	All signs must be approved by the planning commission for a period not to exceed one year. Approval may be renewed by the planning commission
	Nameplate on premises	3 sq. ft. maximum per use		Attached to main structure	
	Political	16 sq. ft. maximum	6 ft. max.	On private property and not closer than 10 ft. to a driveway	Shall be removed 15 days following the final voting day
	Property on-premises	6 sq. ft. maximum	6 ft. max.	On private property	
	Service on premises	6 sq. ft. maximum	3 ft. when free-standing	On private property	
	Monument on premises (see other zones for specific	One per lot, 32 sq. ft. plus 1 sq. ft. for every 10 ft. of frontage over	6 ft. max.	On private property and set back 6 ft. from	One sign per street frontage and landscaped appropriately for



	requirements which supersede these requirements)	30 ft. to a maximum of 64 sq. ft.		property lines	the site. Allowed with public or quasi-public buildings or uses, planned unit developments, golf courses, cemeteries, dwelling groups, day care/preschool centers, or other uses permitted in the zone or as approved in conjunction with a conditional permit approval
	Flat on-premises (see other zones for specific requirements which supersede these requirements)	5% of a wall area		Attached to a building	Allowed with public or quasi-public buildings, planned unit developments, golf courses, cemeteries, dwelling groups, or other uses permitted in the zone or as approved in conjunction with a conditional permit approval
<p>Illumination may be built into or attached onto the signs listed above when:</p> <p>(1) Lighting is allowed in the specific zone; or</p> <p>(2) The development occupies more than 500 feet continuous frontage on the street the sign will face and the sign is not closer than 200 feet to a property not allowed an illuminated sign;</p> <p>(3) Flat signs that are exposed to dwellings on adjacent properties shall not be illuminated (property divided by public streets are not adjacent).</p>					

(2) S-1-G, R-4-8.5, R-M, RMH	Ground or projecting on-premises	One per lot, 32 sq. ft., plus 1 sq. ft. for each 10 ft. of frontage over 30 ft. on a street but not to exceed 64 sq. ft.	20 ft. max. ground sign	15 ft. setback	Illumination may be built into or attached onto a sign if the development occupies more than 500 ft. continuous frontage on a street that the sign will face unless exposed to a dwelling on adjacent property
	Flat on-premises	15% of a wall area		Attached to a building	Signs that are exposed to dwellings on adjacent properties shall not be illuminated
	Window on-premises	8 sq. ft. maximum per use			Signs shall not be illuminated
	Monument on-premises	One per lot, 32 sq. ft. plus 1 sq. ft. for every 10 ft. of frontage over 30 to a maximum of 64 sq. ft.	6 ft. max.	18-inch minimum setback	A monument sign can only be utilized if no ground or projecting sign is used
(3) C-1, C-1-L, C-V	Ground or projecting on-premises	One per lot, 48 sq. ft. plus 1 sq. ft. for each 4 ft. of frontage over 30, but not to exceed 128 sq. ft.	25 ft. max.	15 ft. setback	Illumination may be built into or attached to signs unless exposed to a dwelling on adjacent property or a residential zone boundary in

					which case it may be allowed with conditional use approval
	Window on-premises	12 sq. ft. maximum per use			
	Flat or wall on-premises	15% of a wall area			Illumination may be built into or attached to signs unless exposed to a dwelling on adjacent property or a residential zone boundary in which case it may be allowed with conditional use approval. A flat or wall sign may only be used if an awning sign is not used
	Temporary on-premises				See Section 19.82.140
	Monument on-premises	One per lot, 32 sq. ft. plus 1 sq. ft. for every 4 ft. of frontage over 30 to a maximum of 64 sq. ft.	6 ft. max.	18-inch minimum setback	A monument sign can only be utilized if no ground or projecting sign is used
	Awning on-premises	25% of a wall area may be covered with an awning, and 50% of an awning may	8 ft. min. above the ground 0	8 ft. maximum projection from bldg. May be on	Attached to building. Primary graphics on face or street side of structure. An

		be covered with graphics	ft. above bldg. wall	three walls of a building	awning sign may only be used if a flat or wall sign is not used
All regulated signs in C-V zones located in canyon areas of Brighton require conditional use approval.					
(4) C-2, C-3	C-2 Ground or projecting on-premises	48 sq. ft. plus 1 sq. ft. for each foot of frontage over 30 on a street to a maximum of 256 sq. ft. Property abutting a freeway with no frontage on a dedicated street may have one sign as a conditional use located within 30 ft. of the freeway not to exceed 256 sq. ft. and the height shall not exceed 25 ft. above freeway grade. A property having frontage on a dedicated street which connects directly to an on or off ramp of I-15 and is within 600 ft. of the main traveled way of I-15 may have one sign up to 60 ft. high, but not to exceed 25	30 ft. max.	18-inch setback, 1 sign per 300 ft. frontage or part thereof	Illumination may be built into or attached to signs unless exposed to a dwelling on adjacent property or a residential zone boundary in which case it may be allowed with conditional use approval. Rotation and subdued light change may be allowed with conditional use approval.

		ft. above freeway grade level and 400 sq. ft.			
	C-3 Ground or projecting on-premises	48 sq. ft. plus 11/2 sq. ft. for each foot of frontage over 30 on a street to a maximum of 300 sq. ft. Property abutting a freeway with no frontage on a dedicated street may have one sign as a conditional use located within 30 ft. of the freeway not to exceed 300 sq. ft. and the height shall not exceed 25 ft. above freeway grade. A property having frontage on a dedicated street which connects directly to an on or off ramp of I-15 and is within 600 ft. of the main traveled way of I-15 may have one sign up to 60 ft. high, but not to exceed 25 ft. above freeway grade level and 400 sq. ft.	30 ft. max.	No setback required, 1 sign per 300 ft. frontage or part thereof	Illumination may be built into or attached to signs unless exposed to a dwelling on adjacent property or a residential zone boundary in which case it may be allowed with conditional use approval. Rotation and subdued light change may be allowed with conditional use approval.

	Balloon on-premises				Balloon signs are subject to conditional use approval
	Roof on-premises	Same as ground or projecting sign	10 ft. above roof max.		Roof sign may substitute for a ground or projecting sign but is subject to conditional use approval. The planning commission may deny a sign or set more restrictive conditions. Signs shall be installed so that the support structure is not visible
	Window on-premises	16 sq. ft. maximum per use			
	Promotional sign boards on-premises	1 sq. ft. for each linear ft. of frontage to a maximum of 20 sq. ft. per sign	Maximum ht. equals the sign setback, but not more than 10 ft.		Maximum of 1 sign per street front, permanently anchored to the ground, and subject to conditional use approval. Illumination may be built into or attached to signs unless exposed to a dwelling on adjacent property or a residential

					zone boundary in which case it may be allowed with conditional use approval
	Flat or wall on-premises	20% of a wall area			Illumination may be built into or attached to signs unless exposed to a dwelling on adjacent property or a residential zone boundary in which case it may be allowed with conditional use approval. A flat or wall sign may only be used if an awning sign is not used
	Temporary on-premises				See Section 19.82.140
	Monument on-premises	32 sq. ft. plus 1 sq. ft. for every 4 ft. of frontage over 30 on a street to a maximum of 64 sq. ft.	6 ft. max.	18-inch minimum setback, 1 sign per 300 ft. frontage or part thereof	A monument sign can be utilized in lieu of a ground or projecting sign
	Awning on-premises	25% of a wall area may be covered with an awning, and 50% of an awning may be covered with graphics	8 ft. min. above the ground 0 ft. above bldg. wall	8 ft. maximum projection from bldg. Must be on private property.	Attached to building. Primary graphics on face or street side of structure. An awning sign may only be used if a

				May be on three walls of a building	flat or wall sign is not used
(5) M-1, M-2	Ground or projecting on-premises	48 sq. ft. plus 1 sq. ft. for each foot of frontage over 30 on a street to a maximum of 256 sq. ft. A property having frontage on a dedicated street which connects directly to an on or off ramp of I-15 and is within 600 ft. of the main traveled way of I-15 may have one sign up to 60 ft. high, but not to exceed 25 ft. above freeway grade level and 400 sq. ft.	35. ft. max.	15 ft. setback, 1 sign per 300 ft. frontage or part thereof	Illumination may be built into or attached to sign.
	Balloon on-premises				Balloon signs are subject to conditional use approval
	Roof on-premises	Same as ground or projecting sign	10 ft. above roof max.		Roof sign may substitute for a ground or projecting sign but is subject to conditional use approval. The planning commission may



					deny a sign or set more restrictive conditions. Signs shall be installed so that the support structure is not visible
	Window on-premises	16. sq. ft. maximum per use			
	Flat or wall on-premises	20% of a wall area			A flat or wall sign may only be used if an awning sign is not used
	Temporary on-premises				See Section 19.82.140
	Monument on-premises	32 sq. ft. plus 1 sq. ft. for every 4 ft. of frontage over 30 on a street to a maximum of 64 sq. ft.	6 ft. max.	18-inch minimum setback, 1 sign per 300 ft. frontage or part thereof	A monument sign can be utilized in lieu of a ground or projecting sign
	Awning on-premises	25% of a wall area may be covered with an awning, and 50% of an awning may be covered with graphics	8 ft. min. above the ground 0 ft. above bldg. wall	8 ft. maximum projection from bldg. May be on three walls of a building	Attached to building. Primary graphics on face or street side of structure. An awning sign may only be used if a flat or wall sign is not used

(6) F-R, F-M	Same as Section (3) of this table for C-1 and CV				All regulated signs require conditional use approval
(7) MD-1, (7) MD-3	Flat on-premises	5% of a wall area			Illumination excluding luminous tubes may be built into or attached to signs. Sign design shall reflect the architectural design scheme of the project. All signs require conditional use approval
	Monument on-premises	32 sq. ft. plus 1 sq. ft. for every 4 ft. of frontage over 30 on a street to a maximum of 64 sq. ft.	6 ft. max.	18 inch minimum setback, 1 sign per 300 ft. frontage or part thereof	Illumination excluding luminous tubes may be built into or attached to signs. Sign design shall reflect the architectural design scheme of the project. All signs require conditional use approval
(8) O-R-D	Monument on-premises	32 sq. ft. plus 1 sq. ft. for every 4 ft. of frontage over 30 on a street to a maximum of 64 sq. ft.	6 ft. max.	25 ft. minimum setback, 1 sign per 300 ft. frontage or part thereof	Illumination excluding exposed neon or lighted accent stripes may be built into or attached to signs. Sign design shall

					reflect the architectural design scheme of the project. All signs require conditional use approval
	Flat on-premises	5% of a wall area which faces a street	Not higher than 15 ft. above the finished grade of the building	Attached to the wall of a building which faces a street	<p>Illumination excluding exposed neon or lighted accent stripes may be built into or attached to signs. Signs that are exposed to dwellings on adjacent properties shall not be illuminated. Sign design shall reflect the architectural design scheme of the project. All signs require conditional use approval</p>

## Chapter 19.83 WIRELESS TELECOMMUNICATIONS FACILITIES

### Sections:

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[19.83.020 Definitions.](#)

[19.83.030 Applicability.](#)

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[19.83.120 Building permit required.](#)

[19.83.130 Illustrations.](#)

### **19.83.010 Purpose.**

The purpose of this chapter is to establish general requirements for the siting of wireless telecommunications facilities. The intent of this chapter is to:

- A. Encourage the location of facilities in nonresidential areas;
- B. Minimize the total number of monopole facilities throughout the community;
- C. Encourage the joint use of new and existing communication sites;
- D. Encourage providers of facilities to locate them where the adverse impact on the community is minimal;
- E. Encourage providers of facilities to use innovative design to minimize adverse visual impact;
- F. Enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently.

### **19.83.020 Definitions.**

As used in this chapter:

"Antenna" means a transmitting or receiving device used in telecommunications that radiates or captures radio signals.

"Lattice tower" means a self-supporting multiple sided, open steel frame structure used to support telecommunications equipment.

"Monopole facility" means an antenna or series of individual antennas mounted on a single cylindrical pole. Also includes associated equipment. For the purposes of this chapter, if a facility does not fit the definition of a roof or wall mounted facility it shall be considered a monopole facility.

"Roof mounted facility" means an antenna or series of individual antennas mounted on a flat or pitched roof, mechanical room or penthouse of a building or structure. Also includes associated equipment.

"Stealth facility" means a wall, roof, or monopole facility which is disguised as another object or otherwise concealed from view. Examples of stealth facilities include, but are not limited to, trees, synthetic rocks, or architectural elements such as dormers, steeples, and chimneys.

"Wall mounted facility" means an antenna or series of individual antennas mounted against the vertical wall of a building or structure. Also includes associated equipment.

"Wireless telecommunications facility" means an unmanned structure which consists of equipment used primarily for the transmission, reception or transfer of voice or data through radio wave or wireless transmissions. Such sites typically require the construction of transmission support structures to which antenna equipment is attached.

#### **19.83.030 Applicability.**

The requirements of this chapter apply to both commercial and private wireless telecommunications services such as "cellular" or "PCS" (personal communications services) communications and paging systems. All facilities shall comply with the following regulations and all other ordinances of Brighton and any pertinent regulations of the Federal Communications Commission and the Federal Aviation Administration.

#### **19.83.040 General plan required.**

A site location general plan shall be submitted by each company desiring placement of wireless telecommunication facilities. The general plan shall be submitted to the planning commission and development services division prior to processing any permits for permitted or conditional use locations. The general plan shall include inventory of existing and anticipated sites for the Brighton and within one-half mile of the Town boundary. The plan shall indicate area coverage, if known, location, antenna height above existing grade, and antenna type for each site and be updated upon request from the planning commission. Every general plan shall be considered proprietary information and not be part of the public record.

#### **19.83.050 Allowable uses.**

The uses specified in Table 19.83.050 are allowed provided that they comply with all requirements of this chapter.

TABLE 19.83.050				
P—Permitted Use	C—Conditional Use			N- Not allowed
Zones	Wall Mount	Roof Mount	Monopole	Lattice Tower
F-1	P1, C2	P1, C2	C	N

All FMs	P1, C2	P1, C2	C	N
All FRs	P1, C2	P1, C2	C	N
C-V	P1, C2	P1, C2	C	N

1—Permitted use only on nonresidential buildings.

2—Conditional use on residential buildings.

3—Allowed only in conjunction with public or quasi-public uses (see Sections 19.04.440 and 19.04.445).

4—Permitted use if not within 300 feet of a residential zone boundary.

S—Stealth facilities are conditional uses and not required to be located with public or quasi-public uses.

### **19.83.060 Facility types and standards.**

Wireless telecommunications facilities are characterized by the type and location of the antenna structure. There are four general types of antenna structures: wall mounted; roof mounted; monopoles; and lattice towers. Standards for the installation of each type of antenna are as follows:

- A. Wall Mounted Antenna. The following provisions apply to wall mounted antennas: (see Figure 1)
  1. Wall mounted antennas shall not extend above the wall line of the building or structure or extend more than four feet horizontally from the face of the building or structure.
  2. Antennas, equipment and the supporting structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and the supporting structures on buildings should be architecturally compatible with the building.
  3. Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roofline of such structures, shall be considered a wall mounted antenna.
  4. Stealth wall mounted antennas are encouraged and shall be allowed to vary from the provisions of this section as determined by development services for permitted uses and the planning commission for conditional uses. Stealth wall mounted antennas are not required to be located with public or quasi- public uses in all R-l, R-2, and R-4-8.5 zones (see Table 19.83.050).
- B. Roof Mounted Antenna. The following provisions apply to roof mounted antennas: (see Figures 2 and 3)

1. Roof mounted antennas shall be allowed on top of existing penthouses or mechanical equipment rooms provided the antennas and antenna mounting structures shall not extend more than eight feet above the existing roofline of the penthouse or mechanical equipment room.
  2. For antennas not mounted on a penthouse or mechanical equipment room and on a flat roof:
    - a. Setback. The antennas shall be mounted at least five feet from the exterior wall or parapet wall of a building or structure.
    - b. Height. The height shall be measured from the top of the antenna to the roofline of the building or structure, or to the top of the parapet wall if a parapet wall exists. For antennas mounted between five and fourteen feet from the exterior wall or parapet wall, the maximum height of the antenna is equal to the distance the antenna is set back from the exterior wall or parapet wall. For antennas setback more than fourteen feet the maximum height shall be fourteen feet. Antennas extending more than nineteen feet above the roofline require conditional use approval (see Figure 2).
    - c. Roof-mounted antennas extending above the roofline of any penthouse or mechanical equipment room require conditional use approval.
  3. Roof mounted antennas on a pitched roof shall be allowed provided the antennas and antenna support structures do not extend higher than the peak of the roof measured by a horizontal line from the peak extending over the roof (see Figure 3).
  4. Roof mounted antennas shall be constructed and/or colored to match the surroundings in which they are located.
  5. Stealth roof mounted antennas are encouraged and shall be allowed to vary from the provisions of this section as determined by development services division for permitted uses and the planning commission for conditional uses. Stealth roof mounted antennas are not required to be located with public or quasi-public uses in all R-1, R-2, and R-4-8.5 zones (see Table 19.83.050).
- C. Monopole. The following provisions apply to monopoles:
1. The height limit for monopoles is sixty feet except the planning commission may allow a monopole up to eighty feet in the C-2, C-3, M-1, and M-2 zones if it finds: (1) that the monopole will blend in with surrounding structures, poles, or trees and is compatible with surrounding uses, (2) the monopole will be available for co-location with other companies, and (3) the monopole will be setback at least three hundred feet from any residential zone boundary. The height shall be measured from the top of the structure including antennas, to the original grade directly adjacent to the monopole.
  2. In all R-1, R-2, and R-4-8.5 zones, monopoles will only be allowed in conjunction with an existing public or quasi-public use. Public and quasi-

public uses, as defined in Sections 19.04.440 and 19.04.450, include but are not limited to churches, schools, utilities, and parks.

3. No monopoles shall be allowed in the front yard setback of any lot.
4. Monopoles shall be setback from any residential structure a distance equal to its height.
5. Stealth monopole facilities are encouraged and shall be allowed to vary from the provisions of this section as determined by development services division for permitted uses and the planning commission for conditional uses. Stealth monopoles are not required to be located with public or quasi-public uses in all R-1, R-2, and R-4-8.5 zones (see Table 19.83.050).

D. Lattice Tower. Lattice towers are not allowed.

#### **19.83.070 Color.**

Monopoles, antennas, and any associated buildings or equipment shall be painted to blend with the surroundings which they are most commonly seen. The color shall be determined on a case-by-case basis by the planning commission for conditional uses and development services division for permitted uses. Within six months after the facility has been constructed, the planning commission or the development services division may require the color be changed if it is determined that the original color does not blend with the surroundings.

#### **19.83.080 Sites in the foothills and canyons.**

For the purpose of this chapter the foothills and canyons are defined as the areas shown on the maps in the document entitled " Brighton Foothill and Canyon Development Standards."

- A. Any grading for telecommunication facilities, including access roads and trenching for utilities, shall comply with the Uniform Building Code. Telecommunication facilities in the foothills and canyons shall comply with the FR zone requirements for grading (Section 19.12.100), natural vegetation (Section 19.12.110) and utilities (Section 19.12.120). Everything possible should be done to minimize disturbance of the natural environment.
- B. A computer-generated visual simulation of the proposed structures is required for all sites in the foothills and canyons. The simulation shall show all structures including but not limited to monopoles, antennas, and equipment buildings.
- C. Everything possible should be done to minimize disturbance of the visual environment. Site placement and color should be carefully considered to blend in with the surroundings.
- D. Continuous outside lighting is prohibited unless required by the FAA for the monopole.



#### **19.83.090 Additional requirements.**

The following shall be considered by the planning commission for conditional uses:

- A. Compatibility of the proposed structure with the height and mass of existing buildings and utility structures.
- B. Location of the antenna on other existing structures in the same vicinity such as other monopoles, buildings, water towers, utility poles, athletic field lights, parking lot lights, etc. where possible without significantly impacting antenna transmission or reception.
- C. Location of the antenna in relation to existing vegetation, topography including ridge lines, and buildings to obtain the best visual screening.
- D. Spacing between monopoles which creates detrimental impacts to adjoining properties.
- E. Installation of, but not limited to, curb, gutter, sidewalk, landscaping, and fencing as per Sections 19.76.210 and 19.84.050.

#### **19.83.100 Accessory buildings.**

Accessory buildings to antenna structures must comply with the required setback, height and landscaping requirements of the zoning district in which they are located. All utility lines on the lot leading to the accessory building and antenna structure shall be underground.

#### **19.83.110 Non-maintained or abandoned facilities.**

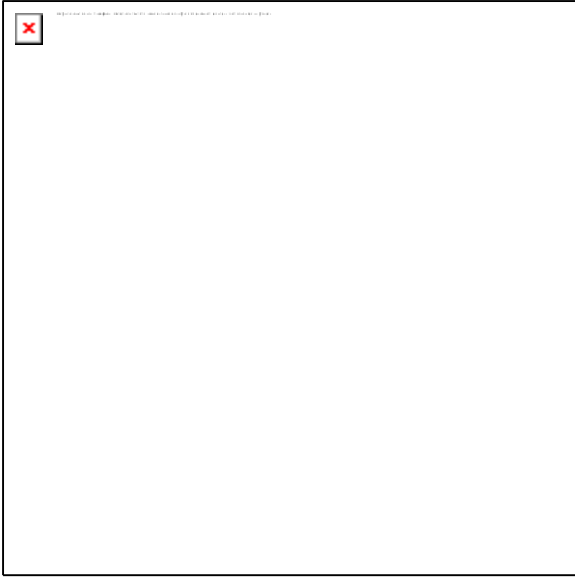
The building official may require each non-maintained or abandoned telecommunications facility to be removed from the building or premise when such a facility has not been repaired or put into use by the owner or agent within ninety calendar days after notice of non-maintenance or abandonment is given to the owner or agent. The applicant shall post a site specific bond when a permit is issued to guarantee removal of the facility and site restoration. The type of bond and amount shall be determined upon review by Brighton staff. No bond shall be required for roof or wall mounted facilities.

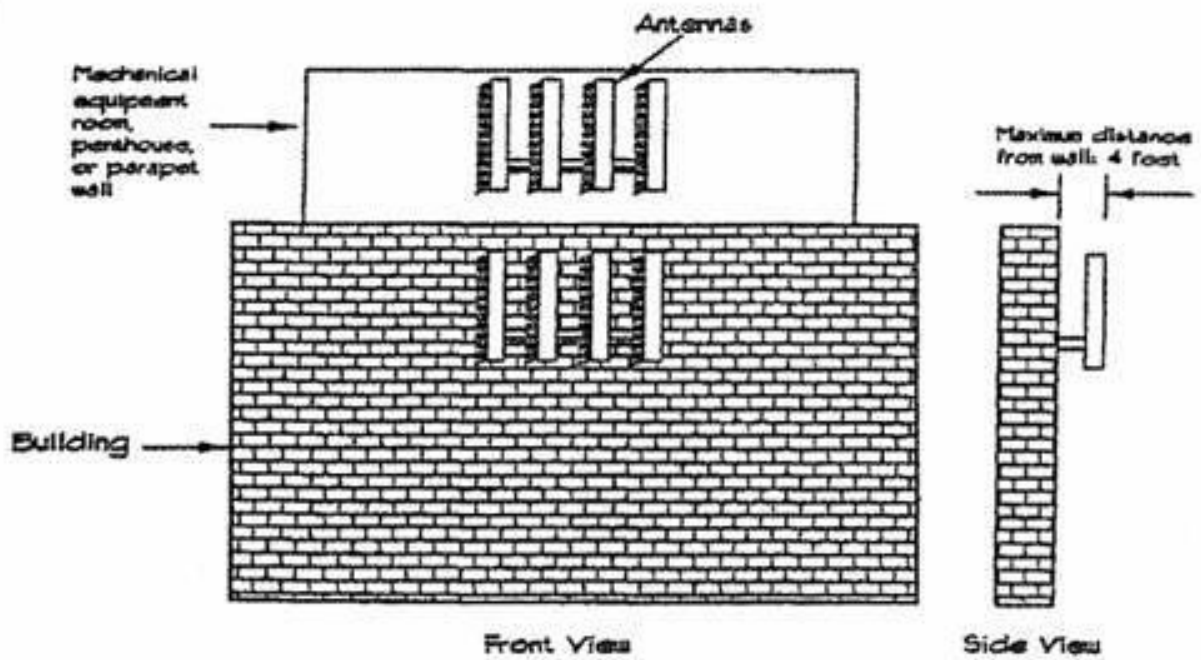
#### **19.83.120 Building permit required.**

A building permit from the development services division is required for all wireless telecommunication facilities including, but not limited to, monopoles, and roof and wall mounted antennas.

#### **19.83.130 Illustrations.**

The illustrations, Figures 1, 2, and 3, are intended to demonstrate graphically the intent of this chapter.

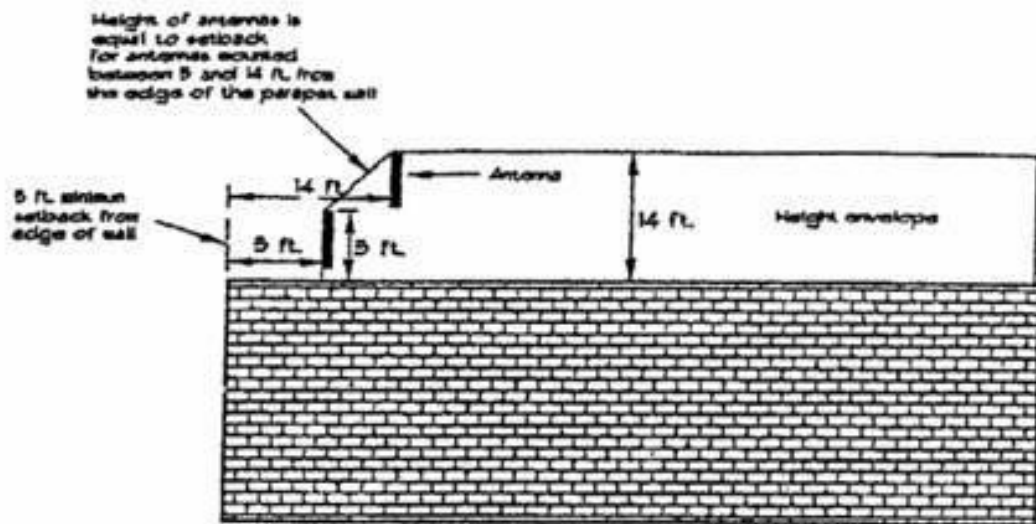




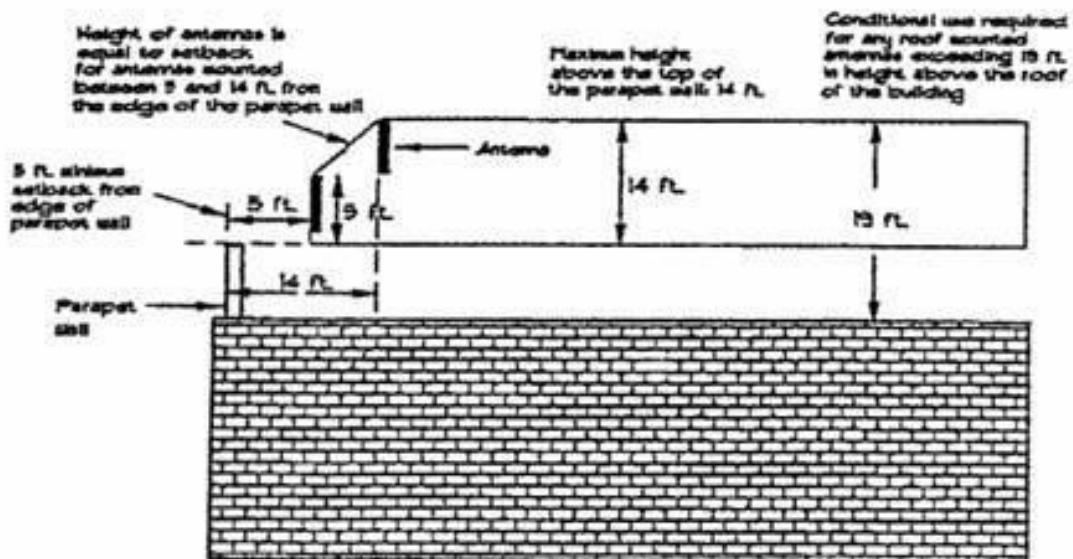
Wall Mounted Antennas

Figure 1





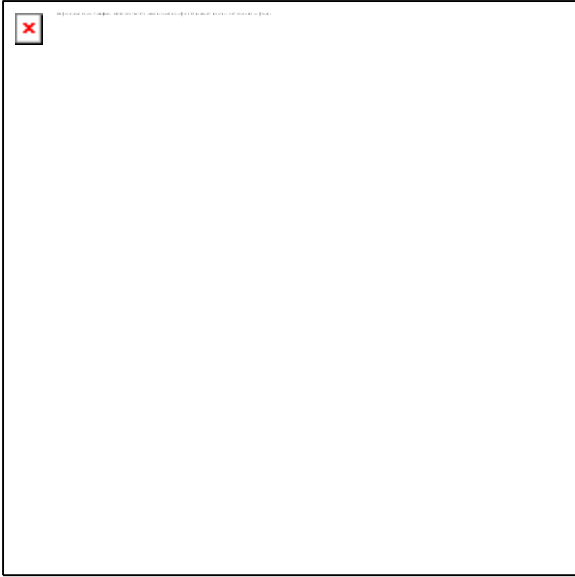
Building without a parapet wall

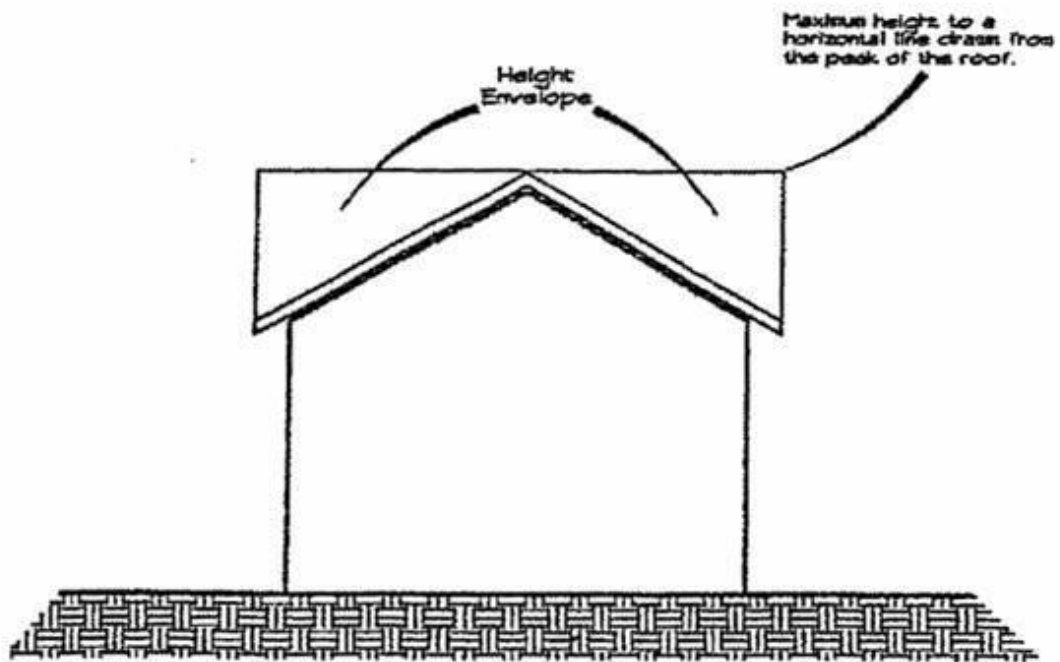


Building with a parapet wall

### Roof Mounted Antennas

Figure 2





Roof Mounted Antennas  
Pitched Roof

Figure 3

[19.84.010 Purpose.](#)

[19.84.020 Conditional use permit required when.](#)

[19.84.030 Application requirements—Fee.](#)

[19.84.040 Application review.](#)

[19.84.050 Approval/denial authority.](#)

[19.84.060 Standards for approval.](#)

[19.84.075 Graffiti preventative materials or design.](#)

[19.84.080 Appeals.](#)

[19.84.095 Preliminary and final approval of conditional use applications.](#)

[19.84.100 Revocation of conditional use permits.](#)

[19.84.110 Hearing officer.](#)

[19.84.120 Inspection.](#)

#### **19.84.010 Purpose.**

The purpose of this chapter is to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional," such that proposed new land uses meet Brighton standards and are properly integrated into the community and that those that appear to violate Brighton standards are effectively mitigated or prohibited. Conditional uses shall be approved on a case-by-case basis provided the applicant adequately demonstrates that negative impacts of the use can be mitigated through the imposition of reasonable conditions of approval.

#### **19.84.020 Conditional use permit required when.**

A conditional use permit shall be required for all uses listed as conditional uses in the district regulations or elsewhere in this title.

#### **19.84.030 Application requirements—Fee.**

Only when the following elements are satisfied is a conditional use application deemed complete:

- A. Application for a conditional use permit shall be made by the property owner or certified agent thereof in writing upon the form(s) designated by the director or director's designee.
- B. Accompanying Documents. Detailed site plans and specifications drawn to scale, unless waived by the director or director's designee, shall be submitted with the application.



- C. Fee. The initial application fee for any conditional use permit, as provided for in Section 3.52.040 of this code, shall be paid. The payment of a partial application fee, or the submittal of plans for a pre-submittal review, does not constitute a complete application.

#### **19.84.040 Application review.**

- A. The director or the director's designee shall administer an application review procedure in which the proposed use and the proposed site development plan are evaluated for compliance with all applicable ordinances and codes and for anticipated detrimental effects.
- B. The application review procedure shall contain the following components:
  - 1. Referral of the application to all affected entities;
  - 2. A review of the proposed site plan for compliance with applicable sections of the zoning ordinance;
  - 3. A review of the proposed use and site plan to ascertain potential negative impacts and whether reasonable conditions can be imposed to mitigate those impacts.
- C. The application review procedure may include the following:
  - 1. Referral of the application to government or regulating entities for recommendations;
  - 2. A pre-application meeting, in which preliminary site plans are reviewed and discussed prior to finished plans being submitted for review;
  - 3. An on-site review of the proposal by the director, director's designee or staff;
  - 4. A requirement that the applicant submit impact studies or other technical studies regarding grading, drainage, traffic, geologic hazards, etc.
- D. The director, director's designee or staff shall present a review, summary and recommendation to the planning commission after having provided the applicant with a copy as required by state law. The recommendation shall remain part of the public record.

#### **19.84.050 Approval/denial authority.**

The planning commission has the authority to approve, deny, or approve with conditions conditional use applications.

- A. Planning Commission Approval.
  - 1. The planning commission shall review and approve or deny each application during a public meeting.
  - 2. The planning commission's decision shall be based on information presented through the public meeting process, including: the materials submitted by the

applicant, the recommendation of the director or director's designee, and input from interested parties and affected entities.

3. If conditions are specified, the director or director's designee shall issue a final approval letter upon satisfaction of the planning commission's conditions of approval.
4. If the applicant fails to meet all conditions of approval within twelve months of the planning commission's decision, the application is deemed denied. A twelve-month extension may be granted upon the payment of an additional filing fee equal to the original filing fee.
5. A planning commission decision shall be made on a complete conditional use application within a reasonable time frame, not to exceed ninety days. The planning commission is authorized to review and take action on an application as outlined in Section 19.84.040 after having notified the applicant of the meeting date.
6. Failure by the applicant to provide information that has been requested by the planning commission, the director or director's designee to resolve conflicts with the standards in Section 19.84.060 (above) may result in an application being denied.

B. Decision. Each conditional use application shall be:

1. Approved if the proposed use, including the manner and design in which a property is proposed for development, complies with the standards for approval outlined in Section 19.84.060; or
2. Approved with conditions if the anticipated detrimental effects of the use, including the manner and design in which the property is proposed for development, can be mitigated with the imposition of reasonable conditions to bring about compliance with the standards outlined in Section 19.84.060; or
3. Denied if the anticipated detrimental effects of the proposed use cannot be mitigated with the imposition of reasonable conditions of approval to bring about compliance with the standards outlined in Section 19.84.060.

#### **19.84.060 Standards for approval.**

Prior to approval, all conditional uses and accompanying site development plans must be found to conform to the following standards:

- A. The proposed site development plan shall comply with all applicable provisions of the zoning ordinance, including parking, building setbacks, and building height.
- B. The proposed use and site development plan shall comply with all other applicable laws and ordinances.
- C. The proposed use and site development plan shall not present a serious traffic hazard due to poor site design or to anticipated traffic increases on the nearby

road system which exceed the amounts called for under Brighton transportation master plan.

- D. The proposed use and site development plan shall not pose a serious threat to the safety of persons who will work on, reside on, or visit the property nor pose a serious threat to the safety of residents or properties in the vicinity by failure to adequately address the following issues: fire safety, geologic hazards, soil or slope conditions, liquifaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.
- E. The proposed use and site development plan shall not adversely impact properties in the vicinity of the site through lack of compatibility with nearby buildings in terms of size, scale, height, or noncompliance with community general plan standards.

#### **19.84.075 Graffiti preventative materials or design.**

- A. Whenever the planning commission determines that there is a reasonable likelihood that graffiti will be placed on the surfaces of proposed improvements it shall require, as part of the conditional use approval, that the applicant apply an anti-graffiti material, approved by the development services division, to each of the surfaces to be constructed. The anti-graffiti material shall be used on surfaces from ground level to a height of nine feet. The planning commission may approve dense planting or appropriate design measures in place of anti-graffiti materials.
- B. Whenever the planning commission becomes aware of graffiti having been placed on any surfaces constructed as part of development approved as a conditional use, it may require that the applicant or his/her successor in interest apply an anti-graffiti material to such surfaces where no such material was previously required.

#### **19.84.080 Appeals.**

Any adversely affected person shall have the right to appeal to the land use hearing officer any decision rendered by the planning commission, the director or director's designee by filing in writing, stating the reasons for the appeal with the land use hearing officer, within ten days following the date upon which the decision is made. Appeals to the land use hearing officer shall comply with the following procedures:

- A. Upon scheduling a hearing date, the land use hearing officer shall notify the planning commission coordinator at least two weeks prior to the hearing to allow preparation of the record.
- B. The planning commission coordinator shall prepare a copy of the record of the proceedings and decision being appealed for presentation to the land use hearing officer.
- C. The hearing officer shall review the record, and may not accept or consider any evidence outside the record unless the evidence was offered to and was

excluded by the planning commission, the director or director's designee and the hearing officer determines that it was improperly excluded.

- D. The land use hearing officer shall review the planning commission's or the development services division's actions to determine whether the decision was arbitrary, capricious, or illegal.
- E. The filing of an appeal does not automatically stay the decision; however, the land use hearing officer has the authority to stay the decision while the appeal is pending.
- F. After review of the record and written and oral argument on both sides, the hearing officer may affirm, reverse, alter, or remand to the planning commission, the director or director's designee for further review and consideration the action taken by the planning commission, the director or director's designee.

#### **19.84.095 Preliminary and final approval of conditional use applications.**

- A. Unless otherwise designated, a decision approving a conditional use application shall be a preliminary approval of the application.
- B. Except as specified in subsection C of this section, the planning and development services director is authorized to grant final approval of conditional use applications after all of the conditions and requirements of the preliminary approval which are necessary for the final approval have been met. Final approval of a conditional use application shall be in the form of a letter to the applicant which, together with the approved site plan if required, shall constitute the conditional use permit.
- C. The planning commission may require as a condition of preliminary approval that a conditional use application be brought before the planning commission for consideration of final approval.

#### **19.84.100 Revocation of conditional use permits.**

A conditional use permit may be revoked by the planning commission upon a finding of failure to comply with the terms and conditions of the original permit or for any violation of this title occurring on the site for which the permit was approved. Prior to taking action concerning revocation of a conditional use permit, a hearing shall be held by the planning commission. Notice of the hearing and the grounds for consideration of revocation shall be mailed to the permittee at least ten days prior to the hearing.

#### **19.84.110 Hearing officer.**

The planning commission may appoint, with the concurrence of Brighton mayor, a hearing officer or officers to make recommendations to the planning commission as to whether cause exists for the planning commission to consider revoking any conditional use permit. Prior to making any recommendation to the planning commission, an evidentiary hearing shall be conducted by the hearing officer to determine whether the permittee has failed to comply with the terms and conditions of the original permit or has

otherwise violated any provision of the zoning ordinance occurring on the site for which the permit was approved. The hearing officer shall notify the planning commission if any violations have been corrected by the permittee prior to the issuance of the hearing officer's recommendations.

#### **19.84.120 Inspection.**

Following the issuance of a conditional use permit by the planning commission the building official shall approve an application for a building permit pursuant to Chapter 19.94 of this title and shall ensure that development is undertaken and completed in compliance with the permits.

### **Chapter 19.85 HOME BUSINESS**

#### **Sections:**

[19.85.010 Subject and definition.](#)

[19.85.020 Standards.](#)

[19.85.030 Regulations and enforcement.](#)

#### **19.85.010 Subject and definition.**

- A. "Home business" shall mean any business activity, other than those listed below, which is conducted entirely within a dwelling or attached garage and is clearly incidental, secondary and in addition to the use of the structure for dwelling purposes. The purpose of the home business chapter is to allow the use of a portion of a home by one of its residents for business purposes, while establishing standards to ensure that the business use of the home will not adversely impact the residential character of the neighborhood in which the home business is located.
- B. "Home business" shall not include the following business activities taking place at the home:
  - 1. Motor vehicle, trailer or boat repair;
  - 2. Any use involving the storage or sale of inflammable, explosive or hazardous materials;
  - 3. Junkyards;
  - 4. Mortuaries or crematoriums;
  - 5. Sexually oriented businesses;
  - 6. Lawn mower or small engine repair;
  - 7. Auto body and/or fender work;
  - 8. Towing operations;
  - 9. Vehicle sales or rentals;

- 10. Welding, iron works, foundries;
- 11. Major appliance repair (washers, dryers, refrigerators, etc.).
- C. Uses that are listed as permitted or conditional uses in residential zones and are specifically defined under Chapter 19.04 are subject to a conditional or permitted use approval process, but are not subject to regulation under this chapter. Such uses include, but are not limited to, short-term rentals, home daycare, home preschools, uses involving the raising, breeding, training, housing, keeping or care of animals, residential health care, residential facilities for elderly or disabled persons, bed and breakfast inn or homestay, boarding houses, etc.
- D. The following activities are exempted from regulation under this chapter:
  - 1. Garage or yard sales; provided the sale is held for not more than three consecutive days, and no more than two times per year at the same location, and no consignment goods are offered for sale;
  - 2. Temporary social gathering sales that do not exceed one day, such as candle parties, book parties, etc. not to exceed four occurrences per year.

#### **19.85.020 Standards.**

The following standards shall apply to home businesses:

- A. The primary use of the dwelling must be residential.
- B. The person operating the business must reside in the dwelling on a full-time basis (at least nine months per year).
- C. For lots which front on a right of way less than eighty feet wide, only the business operator and his/her immediate family members who reside in the home shall be employed or do any work, whether compensated or not, in conjunction with the business. For lots which front on a right of way of eighty feet or greater, one additional non-resident employee is allowed.
- D. Customers shall be allowed at the residence only if scheduled on an appointment basis, and are only allowed between the hours of seven a.m. and ten p.m. Group lessons or sessions shall not exceed six people at a time.
- E. No exterior remodeling shall take place that would change the residential appearance of the home.
- F. Interior structural alterations made to the home are allowed only if they are consistent with its primary use as a dwelling.
- G. All business activities must take place within the dwelling and/or attached garage and shall not occupy more than twenty-five percent or more than five hundred square feet (whichever is less) of the floor area of the home.
- H. The storage or display of supplies, inventory, equipment or materials in any portion of the yard or within a detached accessory building is prohibited.

- I. Only those tools, equipment, or electric apparatus that are commonly used as accessories to or in conjunction with residential uses are allowed to be used as part of the home business.
- J. Home businesses must be conducted in such a manner as not to emit or create excessive odors, smoke, dust, heat, fumes, light, glare, sounds, noises, vibrations or interference with radio and/or television reception.
- K. In addition to the parking spaces required for the residents of the dwelling, parking for customers and for an employee, if allowed under subsection (D) above, must be provided in the driveway or garage.
- L. Only a three square foot, non-illuminated nameplate sign is allowed. The nameplate sign must be attached to a wall or window of the dwelling.
- M. No vehicle larger than a passenger car or van or one ton pickup truck is allowed to be brought to, parked on, or stored on the property in conjunction with a home business.
- N. If the applicant for a home business is not the property owner, the applicant must obtain written authorization of the property owner or manager to apply.
- O. The property address (house number) must be clearly posted on the home using letters at least four inches in height in a contrasting color to the building.
- P. The condition of the dwelling and landscaped areas shall be well maintained.

#### **19.85.030 Regulations and enforcement.**

- A. An application for home business must be submitted to the planning and development services division of Brighton for review, and must be accompanied by the application fee listed in Section 3.52.080. Upon finding that the applicant understands and agrees to comply with the standards set forth in Section 19.85.020, the application shall be approved.
- B. All home businesses are required to obtain a Brighton business license. The business license must be renewed each year that the home business is in operation.
- C. Violations of the standards set forth in Section 19.85.020 shall be subject to the civil penalties outlined in Section 19.94.070. In addition, a business license revocation hearing may be scheduled at the discretion of the division director of planning and development services for any business found to be in violation of the home business standards or of any other Brighton ordinance.
- D. The business owner is responsible for complying with all applicable health, fire, building and safety codes.
- E. All home businesses shall be reviewed for compliance with the provisions of this chapter and approved under the application process mentioned above. For the purposes of this chapter, a change of business ownership and/or relocation to a new address is considered a new business, and requires separate approval.

## **Chapter 19.87      RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY**

[19.87.010 Purpose.](#)

[19.87.020 Scope.](#)

[19.87.030 Definitions.](#)

[19.87.040 Licensing for residential facilities.](#)

[19.87.050 Uses.](#)

[19.87.060 Termination.](#)

[19.87.070 Residential day treatment.](#)

[19.87.080 Parking.](#)

[19.87.090 Appeals.](#)

### **19.87.010      Purpose.**

The purpose of this chapter is to balance local zoning considerations with state and federal mandates requiring a reasonable accommodation for disabled persons living together in a group housing arrangement in a residential neighborhood.

### **19.87.020      Scope.**

The requirements of this chapter apply to any facility, residence, group home or other congregate housing arrangement for persons with a disability notwithstanding any conflicting provision in this title or any other section of this Code of Ordinances.

### **19.87.030      Definitions.**

"Disability" is defined in 19.04.168, "family" in 19.04.230, and "residential facility for persons with a disability" in 19.04.452 of this title.

### **19.87.040      Licensing for residential facilities.**

The licensing requirements for "residential treatment programs" and "residential support programs" are defined and administered pursuant to state law and the Utah Administrative Code.

### **19.87.050      Uses.**

- A. No Permit Required. Four or less unrelated individuals who share housekeeping responsibilities in a single dwelling do not require a zoning permit but function as a "family," defined in Section 19.04.230 of this title as "one to four unrelated people living together in a single dwelling."



- B. The director of planning and zoning ("the director"), with the assistance of the district attorney, shall consider requests for a permitted use/reasonable accommodation for a "residential facility for persons with a disability" ("facility"). The director or the director's designee shall approve a proper application for a zoning permit for the facility in any zone, including residential zones where only single family dwellings are a permitted use, provided:
1. The facility meets or will meet all program, physical facility, and licensure requirements of the state department of human services or department of health.
  2. Except as otherwise provided in this chapter, buildings and uses shall meet all applicable Brighton development standards, licensing and zoning requirements.
  3. The facility shall not house persons who are involuntarily residing therein or who are residing therein as a part of or in lieu of confinement, rehabilitation, or treatment in a correctional facility.
  4. The applicant provides sufficient evidence that the requested accommodation is necessary to allow disabled individuals reasonable, non-discriminatory, federally mandated housing opportunities in the relevant zone. Evidence may include information relating to the history, management, financial feasibility, and therapeutic benefits of the facility, and applicable law.
- C. The director or the director's designee may not deny the application based upon reasonably anticipated detrimental effects to the community so long as reasonable conditions are proposed to mitigate such anticipated detrimental effects.
- D. Institutional Uses. Consistent with the International Building Code, residential facilities designed to house more than sixteen individuals constitute "institutional facilities" likely to create a fundamental change in the character of a single family residential neighborhood. The only residential zone where an application for a conditional use permit for an institution serving more than sixteen residents may be approved is in a zone that allows apartments as a conditional or permitted use.

#### **19.87.060 Termination.**

A use permitted by this chapter is nontransferable and shall be subject to revocation by the appropriate land use or licensing authority if:

- A. The facility is devoted to a use other than a residential facility for persons with a disability, or
- B. The facility exceeds the maximum number of residents specified and approved in the original application, changes the disability classification under state rules, or remodels or expands without first receiving approval from the director.
- C. The facility is not licensed by the state department of health or department of human services.
- D. It is determined by an appropriate Brighton authority that residents of the facility have engaged in a pattern of criminal acts of nuisance, theft, or violence in the adjoining neighborhood.

#### **19.87.070 Residential day treatment.**

To avoid excessive traffic, on street parking, and related impacts altering the residential character of a neighborhood, no day treatment for non-residents shall be permitted in residential facilities for the disabled in the R-1 or R-2 residential zones.

#### **19.87.080 Parking.**

The minimum number of parking spaces shall be four spaces plus one space for each five residents, provided that if the number of residents who own or operate a motor vehicle exceeds the number of parking spaces established above, additional parking shall be provided to ensure that every resident who owns or operates a motor vehicle has a lawfully located off-street parking space.

#### **19.87.090 Appeals.**

Pursuant to section 19.92.050 of this title for permitted uses, any person adversely affected by a final decision of the zoning authority may appeal that decision to the board of adjustment.

### **Chapter 19.88 NONCONFORMING USES AND NONCOMPLYING STRUCTURES\***

#### **Sections:**

\* Editor's Note: The title of Ch. 19.88 was amended by Ord. 1627 § 10.

[19.88.010 Continuation of use.](#)

[19.88.020 Occupation within one year.](#)

[19.88.030 Maintenance permitted.](#)

[19.88.040 Repairs and alterations permitted.](#)

[19.88.050 Addition of parking space.](#)

[19.88.060 Expansion of use permitted.](#)

[19.88.070 Additions, enlargements, moving and reconstruction of a structure.](#)

[19.88.080 Nonconforming use of land.](#)

[19.88.090 Change of use.](#)

[19.88.110 Restoration of damaged structure.](#)

[19.88.120 Abandonment or one-year vacancy.](#)

[19.88.140 Application to have a use violation declared legal through special exception.](#)

[19.88.150 Application to have a structure declared a noncomplying structure.](#)

**19.88.010 Continuation of use.**

The occupancy of a noncomplying structure or of a building or structure by a nonconforming use, existing at the time this title became effective, may be continued, provided that the use has not been abandoned or the building left vacant as provided in Section 19.88.120.

**19.88.020 Occupation within one year.**

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became nonconforming.

**19.88.030 Maintenance permitted.**

A noncomplying structure may be maintained.

**19.88.040 Repairs and alterations permitted.**

Repairs and structural alterations may be made to a noncomplying structure or to a structure housing a nonconforming use. Any remodel or structural alteration that requires the demolition of an outside wall of a noncomplying structure shall only be allowed upon approval of the land use hearing officer, unless the new construction complies with the zoning ordinance. The land use hearing officer decision regarding applications for the removal and replacement of outside walls of a noncomplying structure shall be based upon the criteria outlined in Section 19.88.070(B).

**19.88.050 Addition of parking space.**

A building or structure lacking sufficient automobile parking space in connection therewith as required by this title may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this title for such alteration or enlargement.

**19.88.060 Expansion of use permitted.**

A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.

**19.88.070 Additions, enlargements, moving and reconstruction of a structure.**

- A. A noncomplying structure or building occupied by a nonconforming use shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.

- B. A building occupied by a nonconforming use or a noncomplying structure may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the land use hearing officer, provided that the land use hearing officer shall find:
1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location on the lot is in harmony with one or more of the purposes of this title as stated in Section 19.02.020 of this title, and is in keeping with the intent of this title;
  2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

**19.88.080 Nonconforming use of land.**

The nonconforming use of land, existing at the time this title became effective, may be continued provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provision of this title.

**19.88.090 Change of use.**

- A. A nonconforming use may be changed to any use allowed in the most restrictive zone where such nonconforming use is allowed, provided the planning commission finds that such use would not be more intensive than the most recent existing legal nonconforming use.
- B. Structures shall not be enlarged, removed, reconstructed or otherwise changed except for interior remodeling and exterior restoration or renewal that will make the appearance of the structure more nearly conform to the character of the area in which it is located.
- C. The existing lot or parcel shall not be enlarged upon or modified except to create landscaping, fencing, curb, gutter and sidewalk, road widening or minimum off-street parking that will provide a safer and more compatible facility.
- D. Any change of a nonconforming use to another nonconforming use shall be a conditional use and subject to provisions of Chapters 19.78 and 19.84, except that the proposed nonconforming use need not conform to Brighton general plan.
- E. The planning commission may approve a change of use pursuant to this title even though the nonconforming use may have been abandoned.

**19.88.110 Restoration of damaged structure.**

A noncomplying structure or a structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or

the public enemy and not the result of the intentional or reckless disregard of the owners or occupants, may be restored and the occupancy or use of such structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of one year and is diligently prosecuted to completion.

**19.88.120 Abandonment or one-year vacancy.**

A structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. If the use has not applied to the premises for a consecutive period of sixty days during any twelve-month period, the use shall be deemed abandoned.

**19.88.140 Application to have a use violation declared legal through special exception.**

- A. Whenever land or a structure is used in violation of this title, the owner may file an application with the planning commission to have the use declared legal through special exception. The planning commission may approve such an application only when the evidence establishes all of the following:
  - 1. The use exists on the property at the time of the application and has been in continuous violation of the zoning ordinance for a period exceeding ten years;
  - 2. No complaint has been made to the development services division concerning the violation for a period exceeding ten consecutive years during which the violation existed;
  - 3. Continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity.
- B. The planning commission may consider as evidence:
  - 1. Documents that are part of the public record, such as tax appraisals, utility records, aerial photographs, building permits, etc.
  - 2. Documentation from third parties, such as affidavits, photographs, etc.
  - 3. Documentation from current or past property owners, such as tax records, rental/lease agreements, appraisal records, etc.

In approving an application hereunder, the planning commission may set any conditions it deems necessary for protection of adjacent properties or the public welfare including provisions limiting the period of time the use may continue. This section shall in no way be interpreted to permit the continuation of any violation which exists on the effective date of the ordinance codified in this section. Any person shall have the right to appeal to the land use hearing officer a decision rendered by the planning commission

pursuant to this section. Appellants shall follow the appeal procedures set forth in Section 19.92.050 of this title.

#### **19.88.150 Application to have a structure declared a noncomplying structure.**

Whenever a structure is in violation of the height or setback provisions of this title, the owner may file an application with the director or director's designee to have the structure declared noncomplying. The director or director's designee shall approve the application when the evidence clearly establishes the following:

- A. The structure has existed at its current location, with the same size, height and setbacks for at least ten years;
- B. The structure is found by Brighton building official or designee to pose no threat to the health or safety of persons in or around the structure, and;
- C. Brighton has not taken enforcement action for the violation for a period exceeding five consecutive years during which the violation existed.

### **Chapter 19.90 AMENDMENTS AND REZONING**

#### **Sections:**

[19.90.010 Amendment procedure.](#)

[19.90.020 Hearing—Notice.](#)

[19.90.030 Determination of council.](#)

[19.90.050 Disapproval of rezone application.](#)

[19.90.060 Conditions to zoning map amendment.](#)

[19.90.070 Application to amend the general plan.](#)

[19.90.080 Restriction on applications after adoption of general plan.](#)

[19.90.090 Disapproval of general plan application.](#)

#### **19.90.010 Amendment procedure.**

Brighton council may amend the number, shape, boundaries or area of any zone or any regulation within any zone. Any such amendment shall not be made or become effective unless the same shall have been proposed by or be first submitted for the recommendation of the relevant planning commission.

#### **19.90.020 Hearing—Notice.**

Before finally adopting any such amendment, Brighton council shall consider the application during a public meeting which has been properly noticed in compliance with the provisions of Title 52, Chapter 4, of the Open and Public Meetings Act.

#### **19.90.030 Determination of council.**

Brighton council, after review of the recommendation of the planning commission, may approve, deny, alter or remand for further review and consideration any application for zone change referred to the council by the planning commission.

#### **19.90.050 Disapproval of rezone application.**

Disapproval of an application to amend the zoning map shall preclude the filing of another application to amend the zoning map to reclassify the same parcel of property, or any portion thereof to the same zone classification or if the application is for a commercial classification to the same or any other commercial classification, within one year of the date of the final disapproval of the application unless Brighton council finds that there has been a substantial change in the circumstances or sufficient new evidence since the disapproval of the application to merit consideration of a second application within the one-year time period.

#### **19.90.060 Conditions to zoning map amendment.**

- A. In order to provide more specific land use designations and land development suitability; to insure that proposed development is compatible with surrounding neighborhoods; and to provide notice to property owners of limitations and requirements for development of property, conditions may be attached to any zoning map amendment which limit or restrict the following:
  - 1. Uses;
  - 2. Dwelling unit density;
  - 3. Building square footage;
  - 4. Height of structures.
- B. A zoning map amendment attaching any of the conditions set forth in subsection A shall be designated ZC after the zoning classification on the zoning map and any such conditions shall be placed on record with the planning commission and recorded with Brighton recorder.
- C. In the event any zoning condition is declared invalid by a court of competent jurisdiction, then the entire zoning map amendment shall be void. Any deletion in or change to zoning condition shall be considered an amendment to the zoning ordinance and shall be subject to the requirements of this chapter.

#### **19.90.070 Application to amend the general plan.**

Subject to the restrictions in Sections 19.90.080 and 19.90.090, any property owner or authorized agent thereof may file an application requesting an amendment to Brighton general plan. Such application shall include the reasons or basis upon which the property owner believes Brighton general plan should be amended. Amendments to

Brighton general plan shall comply with the procedures set forth in Chapter 27a of Title 17 of the state code.

**19.90.080     Restriction on applications after adoption of general plan.**

No application may be filed by any property owner or authorized agent thereof to amend any part of Brighton general plan for a period of one year after adoption of such part of Brighton general plan by Brighton council.

**19.90.090     Disapproval of general plan application.**

Disapproval of an application to amend Brighton general plan shall preclude the filing of another application to amend the general plan text in the same or similar manner or to amend the general plan map for any parcel of property or portion thereof to the same land use designation within two years of the date of the final disapproval of the application unless the planning commission finds that there has been a substantial change in the circumstances or other significant reasons since the disapproval of the application to merit consideration of a second application within the two-year time period. No appeal to Brighton council may be taken from a planning commission decision rendered pursuant to this section.

**Chapter 19.91       SEXUALLY ORIENTED BUSINESSES**

**Sections:**

[19.91.010 Title for citation.](#)

[19.91.020 Purpose of provisions.](#)

[19.91.030 Definitions.](#)

[19.91.040 Business permitted—Restrictions.](#)

[19.91.050 Sign restrictions.](#)

[19.91.060 Severability.](#)

**19.91.010     Title for citation.**

The ordinance codified in this chapter shall be known and may be referred to as the "Sexually Oriented Businesses Zoning Ordinance."

**19.91.020     Purpose of provisions.**

It is the purpose and objective of this chapter that Brighton establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses or their location in areas deleterious to the unincorporated area of Brighton; to regulate the signage of such businesses; to control the adverse effects of such signage; and to prevent inappropriate exposure of such businesses to the community. This chapter is to



be construed as a regulation of time, place and manner of the operation of these businesses, consistent with the limitations provided by provisions of the United States and Utah Constitutions.

#### **19.91.030 Definitions.**

As used in this chapter:

"Public park" means a park, playground, swimming pool, golf course or athletic field which is under the control, operation or management of the state, a state agency, Brighton, or a municipality.

"Religious institution" means a building which is used primarily for religious worship and related religious activities.

"School" means an institution of learning or instruction primarily catering to minors, whether public or private, which is accredited as such a facility by the State of Utah. This definition shall include kindergartens, elementary schools, junior high schools, middle high schools, senior high schools, or any special institution of learning under the jurisdiction of the State Department of Education, but shall not include home occupations represented as schools, trade schools, charm schools, dancing schools, music schools or similar limited schools, nor public or private universities or colleges.

"Sexually oriented business" means adult businesses, nude entertainment businesses, seminude dancing bars, outcall services, and nude and seminude dancing agencies as defined in Chapter 5.136.

#### **19.91.040 Business permitted—Restrictions.**

- A. Sexually oriented businesses, other than outcall services and nude and seminude dancing agencies, shall be permitted only in areas zoned C-3 and M-1 pursuant to the provisions of Chapters 19.64 and 19.66 respectively, subject to the following additional restrictions:
  - 1. Sexually oriented businesses shall be subject to conditional use requirements.
  - 2. No sexually oriented business shall be located:
    - (a) Within one thousand feet from any school, public park, religious institution, or other sexually oriented business;
    - (b) Within three hundred feet from an agricultural or residential boundary;
  - 3. The distance requirements for this section shall be measured in a straight line, without regard to intervening structures, from the nearest property line of the school, public park, religious institution, agricultural or residential zoning district, or other sexually oriented business and to the nearest property line of the sexually oriented business.

#### **19.91.050 Sign restrictions.**

Notwithstanding anything contrary contained in Chapter 19.82 of this title, signs for sexually oriented businesses shall be limited as follows:

- A. No more than one exterior sign shall be allowed;
- B. No sign shall be allowed to exceed eighteen square feet;
- C. No animation shall be permitted on or around any sign, or on the exterior walls or roof of such premises;
- D. No descriptive art or designs depicting any activity related to, or inferring, the nature of the business shall be allowed on any sign. Said signs shall contain alphanumeric copy only;
- E. Only flat signs shall be permitted;
- F. Painted wall advertising shall not be allowed;
- G. Other than the signs specifically allowed by this chapter, the sexually oriented business shall not construct or allow to be constructed any temporary sign, banner, light or other device designed to draw attention to the business location.

#### **19.91.060 Severability.**

If any provision or clause of this chapter or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications hereof which can be implemented without the invalid provision, clause or application hereof, and to this end the provisions and clauses of this chapter are declared to be severable.

### **Chapter 19.92 LAND USE HEARING OFFICER [\[4\]](#)**

#### [19.92.010 Creation.](#)

#### [19.92.020 Procedures.](#)

#### [19.92.030 Powers and duties.](#)

#### [19.92.040 Variances.](#)

#### [19.92.050 Appeals.](#)

#### [19.92.060 Special exceptions.](#)

#### **19.92.010 Creation.**

The position of land use hearing officer is created pursuant to the enabling authority granted by Municipal Land Use, Development, and Management Act, section 10-9a-701 of the Utah Code Annotated. The land use hearing officer shall replace in all

respects the previous duties of the board of adjustment. Only one hearing officer shall consider and decide any matter properly presented for land use hearing officer review.

#### **19.92.020 Procedures.**

- A. The land use hearing officer may administer oaths and compel the attendance of witnesses.
- B. All hearings before the land use hearing officer shall comply with the requirements of Chapter 4, Title 52, Utah Code, Open and Public Meetings.
  - 1. The land use hearing officer shall:
    - a. Keep minutes of his or her proceedings; and
    - b. Keep records of his or her examinations and other official actions.
  - 2. The land use hearing officer shall file his or her records in the office of the development services division. All such records are public records.
- C. Decisions of the land use hearing officer become effective at the meeting in which the decision is made, unless a different time is designated at the time the decision is made.

#### **19.92.030 Powers and duties.**

The land use hearing officer shall:

- A. Act as the appeal authority for zoning decisions applying this title as provided in Section 19.92.050 and for conditional use decisions by a planning commission:
- B. Hear and decide the special exceptions to the terms of the zoning ordinance set forth in Section 19.92.060.
- C. Hear and decide variances from the terms of the zoning ordinance; and
- D. Hear and decide applications for the expansion or modification of nonconforming uses.

#### **19.92.040 Variances.**

- A. Any person or entity desiring a waiver or modification of the requirements of the zoning ordinance as applied to a parcel of property that he/she owns, leases, or in which he/she holds some other beneficial interest may apply to the land use hearing officer for a variance from the terms of the zoning ordinance.
- B.
  - 1. The land use hearing officer may grant a variance only if:
    - a. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;

- b. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
  - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
  - d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
  - e. The spirit of the zoning ordinance is observed and substantial justice done.
- 2. a. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection (B)(1), the land use hearing officer may not find an unreasonable hardship unless the alleged hardship:
  - i. Is located on or associated with the property for which the variance is sought; and
  - ii. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- b. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection (B)(1), the land use hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.
- 3. In determining whether or not there are special circumstances attached to the property under subsection (B)(1), the land use hearing officer may find that special circumstances exist only if the special circumstances:
  - a. Relate to the hardship complained of; and
  - b. Deprive the property of privileges granted to other properties in the same district.
- C. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- D. Variances run with the land.
- E. The land use hearing officer may not grant use variances.
- F. In granting a variance, the land use hearing officer may impose additional requirements on the applicant that will:
  - 1. Mitigate any harmful effects of the variance; or
  - 2. Serve the purpose of the standard or requirement that is waived or modified.

#### **19.92.050 Appeals.**

- A. 1. The applicant or any other person or entity adversely affected by a zoning decision administering or interpreting a zoning ordinance may appeal that decision by alleging that an order, requirement, decision or determination made by an official in the administration or interpretation of the zoning ordinance is

arbitrary, capricious or illegal. Appeals of conditional use decisions rendered by a planning commission shall follow the review procedure outlined in Section 19.84.080 of this code.

2. Any officer, department, board or bureau of a Brighton affected by the grant or refusal of a building permit or by any other decisions of the administrative officer in the administration or interpretation of the zoning ordinance may appeal any decision to the land use hearing officer.
- B. The person or entity making the appeal has the burden of marshalling the evidence and proving that the decision is arbitrary, capricious (unsupported by the evidence or facts of record), or illegal.
- C. 1. Only zoning decisions applying the ordinance and conditional use decisions by the planning commission may be appealed to the land use hearing officer.
2. A person may not appeal, and the land use hearing officer may not consider, any zoning ordinance amendments.
- D. Appeals may not be used to waive or modify the terms or requirements of the zoning ordinance.
- E. An appeal to the land use hearing officer must be filed at the development services division of Brighton within sixty days after the order, requirement decision or determination administering or interpreting the zoning ordinance is made in writing. The appeal shall set forth with specificity the reasons or grounds for the appeal.
- F. Appeals of planning commission conditional use decisions shall follow the procedures set forth in Section 19.84.080(B).

#### **19.92.060 Special exceptions.**

The land use hearing officer may approve any of the following special exceptions to the zoning ordinance where he or she determines the exception is consistent with the purposes of the zoning ordinance and will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity:

- A. Where a zone boundary line divides a lot in single ownership at the time of the passage of the ordinance codified in this title, the land use hearing officer may permit a use authorized on either portion of such lot to extend not more than fifty feet into the other portion of the lot.
- B. The land use hearing officer may permit the enlargement of or addition to a noncomplying structure or a building or structure occupied by a nonconforming use.
- C. The land use hearing officer may permit the relocation on a lot of a noncomplying structure or a building or structure occupied by a nonconforming use; or the hearing officer may permit the reconstruction on a lot of a noncomplying structure or a building occupied by a nonconforming use.

## **Chapter 19.93      PROCEDURES FOR ANALYZING TAKINGS CLAIMS**

### **Sections:**

[19.93.010 Purpose.](#)

[19.93.020 Findings.](#)

[19.93.030 Taking relief procedures—Petition and submittal requirements.](#)

[19.93.040 Taking relief procedures—Determination of taking.](#)

### **19.93.010      Purpose.**

The purpose of this chapter is to establish procedures for:

- A. Obtaining and analyzing information regarding a claim that the application or enforcement of Brighton zoning ordinances and/or land use regulations to private property within the unincorporated areas of Brighton constitutes an unconstitutional taking of private property without just compensation; and
- B. Determining whether it might be appropriate to grant administrative relief to the claimant in the event it is determined that such application or enforcement constitutes an unconstitutional taking.

### **19.93.020      Findings.**

The governing body makes the following findings:

- A. To further the public interest in lawful and responsible land development, and promote the health, welfare, and safety of its residents, Brighton has enacted zoning and other land development regulations applicable to properties within unincorporated areas of Brighton, including new and revised regulations applicable to properties in Brighton's canyons and foothills; and
- B. In the event an owner of private property within the unincorporated area of Brighton claims that the application or enforcement of Brighton zoning ordinances or other land use regulation constitutes an unconstitutional taking of its private property, it is in the best interests of Brighton to have established procedures for obtaining relevant information for analyzing such claim and determining whether it might be appropriate to grant certain relief to the claimant, rather than conducting such analysis in a more confrontational, expensive, and time-consuming litigation context.

### **19.93.030      Taking relief procedures—Petition and submittal requirements.**

- A. Takings Relief Petition. Any applicant, after a final decision on its application is rendered by the development services director, planning commission, land use hearing officer, mayor or Brighton council, may file a takings relief petition with the

development services director seeking relief from the final decision on the grounds that it constitutes an unconstitutional taking of the applicant's private property.

- B. Affected Property Interest. The takings relief petition must provide information sufficient for the attorney to determine that the petitioner possesses a protectable interest in property under Article I, Section 22 of the Constitution of Utah or the Fifth Amendment to the United States Constitution. In the event the petition does not provide information sufficient for the attorney to determine that the petitioner possesses a protectable interest in property under Article I, Section 22 of the Constitution of Utah or the Fifth Amendment to the United States Constitution, the petition shall be returned to the petitioner.
- C. Time for Filing Petition. No later than thirty calendar days from the final decision by the development services director, planning commission, land use hearing officer, mayor, Brighton council or other Brighton review authority on any site plan or other type of zoning application the applicant shall file a takings relief petition with the development services director.
- D. Information to Be Submitted with Takings Relief Petition.
  - 1. The takings relief petition must be submitted on a form prepared by the development services director, and must be accompanied at a minimum by the following information:
    - a. The name of the petitioner;
    - b. The name and business address of the current owner of the property; form of ownership (whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture, limited liability company, or other); and if owned by corporation, partnership, or joint venture, or limited liability company, the names and addresses of principal shareholders or partners or members;
    - c. The price paid and other terms of sale for the property, the date of purchase, and the name of the party from whom purchased. Include the relationship, if any, between the petitioner and the party from whom the property was acquired;
    - d. The nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership or leasehold interest;
    - e. The terms (including sale price) of any previous purchase or sale of a full or partial interest in the property by the current owner, applicant, or developer prior to the date of application;
    - f. All appraisals of the property prepared for any purpose, include financing, offering for sale, or ad valorem taxation, within the three years prior to the date of the petition;
    - g. The assessed value of and ad valorem taxes on the property for the three years prior to the date of the petition;

- h. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance, and term of the loan and other significant provisions, including but not limited to, right of purchase to assume the loan;
  - i. All listings of the property for sale or rent, price asked and offers received (if any), during the period of ownership or interest in the property;
  - j. All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;
  - k. For income producing property, itemized income and expense statements from the property for the previous three years;
  - l. Evidence and documentation of improvements, investments, and expenditures for professional and other services related to property made during the past three years;
  - m. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
  - n. Information describing all use(s) of the property during the five years prior to the petition.
2. The development services director may request additional information reasonably necessary, in his or her opinion, to arrive at a conclusion concerning whether there has been a taking.
- E. Failure to Submit Information. In the event that any of the information required to be submitted by the petitioner is not reasonably available, the petitioner shall file with the petition a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

#### **19.93.040 Taking relief procedures—Determination of taking.**

##### **A. Preliminary Determination of Taking.**

- 1. Prior to the appointment of a hearing officer, and based on a review of the petition and all relevant information submitted by the petitioner, Brighton council, upon advice of the development services director and the attorney, shall make a preliminary determination whether a taking may have occurred. This preliminary determination shall be made within thirty days of the filing of the petition and submission of all information required to make such determination. In the event Brighton council makes a preliminary determination that a taking may have occurred, Brighton council may appoint a hearing officer, elect to conduct either formal or informal administrative proceedings, and proceed with a full review of the petition.
- 2. If a preliminary determination is made that a taking may have occurred, then the development services director and attorney shall recommend whether the



hearing shall be formal or informal under the rules of procedure adopted by the governing body for such hearings.

3. If upon the advice of the development services director and the attorney, Brighton council finds that a taking has not occurred, the petition shall be denied and no hearing officer shall be appointed.
- B. Appointment of Hearing Officer. The development services director shall, within thirty days following a preliminary determination by the governing body that a taking may have occurred, appoint a hearing officer to review information by the petitioner, to hold a public hearing to determine whether a taking has occurred, and to make a recommendation to the governing body concerning the petition.
- C. Qualifications of the Hearing Officer. Every appointed hearing officer shall be licensed to practice law in the state of Utah. Prior to appointment, the hearing officer shall submit a statement of no potential or actual conflict of interest in connection with the petitioner or petition.
- D. Notice of Public Hearing. Within ten days following appointment of the hearing officer, written notice of a public hearing shall be published and posted in accordance with Section 19.84.040D of this title. The hearing shall be held within thirty days of the final date of written notice, unless a reasonable extension of time is agreed to by both the development services director and the petitioner.
- E. Conduct of the Hearing. The hearing shall be conducted according to the requirements of the rules of procedure adopted by the governing body for such hearings.
- F. Determining the Takings Issue. The hearing officer shall consider, among other items, the following information or evidence:
  1. Any estimates from contractors, appraisers, architects, real estate analysts, qualified developers, or other competent and qualified real estate professionals concerning the feasibility, or lack of feasibility, of construction or development on the property as of the date of the petition, and in the reasonably near future;
  2. Any evidence or testimony of the market value of the property both under the uses allowed by the existing regulations and any proposed use; and
  3. Any evidence or testimony concerning the value or benefit to the petitioner from the availability of opportunities to cluster development on other remaining contiguous property owned by the petitioner eligible for such clustering as provided elsewhere in this title.
- G. Burden of Proof. The petitioner shall have the burden of proving by a preponderance of the evidence that the final decision that is the subject of the takings relief petition constitutes an unconstitutional taking.
- H. Findings of the Hearing Officer. The hearing officer shall, on the basis of the evidence and testimony presented, make the following specific findings as part of his/her report and recommendations to the governing body:

1. Whether the petitioner has complied with the requirements for presenting the information to be submitted with a takings relief petition;
  2. Whether the petitioner has a protectable interest in the property that is the subject of the petition;
  3. The market value of the property considering the existing zoning regulation;
  4. The market value of the property under the proposed use;
  5. Whether there are other economically viable uses that may be made of the property;
  6. The market value of, or benefit accruing from opportunities to cluster development on other remaining contiguous property owned by the petitioner eligible for such transfer as provided for in this title;
  7. Whether it was feasible to undertake construction on, or development of, the property as of the date of the application, or in the reasonably near future thereafter;
  8. Whether the final decision that is the subject of the takings relief petition constitutes an unconstitutional taking of private property without just compensation.
- I. Report and Recommendations of the Hearing Officer.
1. If the hearing officer finds that the final decision which is the subject of the takings relief petition constitutes an unconstitutional taking of private property without just compensation, he or she shall remand the matter to the governing body with recommendations concerning what relief might be appropriate. In making such recommendations, the hearing officer shall consider, among other factors:
    - a. Approval of development on some portion of the property; or
    - b. A rezoning of the property to a more appropriate classification, approval of an alternative development plan, modification or waiver of normally-applicable development standards, or other appropriate land-use regulatory action;
    - c. An opportunity to cluster development;
    - d. For property subject to the foothills and canyons overlay zone, transfer of up to ten percent of the maximum allowable density that would otherwise be attributable to areas with greater than thirty percent slope on the subject property to other developable portions of the property;
    - e. A waiver of permit fees;
    - f. Acquisition of all or a portion of the property at market value.
  2. Recommendations for clustering within the boundaries of the subject property owned by the petitioner shall require a written finding by the hearing officer that such clustering and the resulting increase in development density will be compatible with existing developments and land use patterns on properties surrounding the subject property.

- a. For purposes of such "compatibility" finding, the hearing officer shall compare the petitioner's proposed development incorporating the increased transfer density with existing development on surrounding properties, and take into consideration the following factors:
  - i. Architectural character;
  - ii. Building size, height, bulk, mass, and scale;
  - iii. Building orientation;
  - iv. Privacy considerations in terms of privacy for prospective residents within the petitioner's development and in terms of privacy protection for adjoining land uses;
  - v. Building materials;
  - vi. Building color; and
  - vii. When applicable, operations of the petitioner's development project, including but not limited to hours of operation; activities that may generate adverse impacts on adjacent land uses such as noise or glare; location of loading/delivery zones; and light intensity and hours of full illumination.
- d. The report and recommendation shall be submitted to Brighton council and mailed to the petitioner within thirty days following the conclusion of the public hearing.

J. Brighton Council Review and Consideration.

- 1. Brighton council shall review the report and recommendations of the hearing officer and approve or deny the takings relief petition within sixty days following receipt of the hearing officer's report. Provided, however, that Brighton council may extend this period upon a finding that due to the size and complexity of the development or proposal and similar factors that additional review time is necessary.
- 2. Brighton council may hold a public hearing and provide notice as set forth in Section 19.84.040D of this title. Only new testimony and evidence shall be presented at any such public hearing.
- 3. Brighton council may adopt any legally available incentive or measure reasonably necessary to offset the taking, and may condition such incentives upon approval of specific development or site plans.
- 4. The decision of Brighton council shall not become final until it issues a decision approving or denying the petition and specifying any relief it may deem appropriate.

K. Time Limits/Transferral of Relief or Incentives. Any relief or incentives adopted by Brighton council pursuant to this chapter may be transferred and utilized by successive owners of the property or parties in interest, but in no case shall the relief incentives be valid after the expiration date of a specific development approval.

## **Chapter 19.94      ENFORCEMENT**

### **Sections:**

[19.94.010 Enforcement authority.](#)

[19.94.020 Powers and duties.](#)

[19.94.030 Unlawful use prohibited.](#)

[19.94.040 Violation—Penalties and remedies.](#)

[19.94.050 Violation—Persons liable.](#)

[19.94.060 Violation—Notice and order.](#)

[19.94.070 Civil penalties.](#)

### **19.94.010      Enforcement authority.**

The director of development services or his authorized agent is designated as the officer charged with the enforcement of this title. The director of animal services is designated as the enforcement official for Section 19.04.305 of the Brighton Code of Ordinances which shall be enforced pursuant to Section 8.10.010 of this code.

### **19.94.020      Powers and duties.**

- A. The director of development services is authorized to inspect or cause to be inspected all buildings and structures in the course of construction, modification or repair and to inspect land uses to determine compliance with the provisions of this title; provided, however that no such inspection shall be required as a condition precedent to commencement or continuation of any construction, modification or repair of building or structure.
- B. The director shall enforce all of the provisions of this title, employing all legal means available to do so. In the enforcement of this title, the director or any employee of the division authorized to represent the director shall have the right to enter any building for the purpose of determining the use thereof or to enter the premises for the purpose of determining compliance with the provisions of this title, provided that such right of entry shall be exercised only at reasonable hours and that in no case shall entry be made to any occupied building in the absence of the owner or tenant thereof without the written order of a court of competent jurisdiction.

### **19.94.030      Unlawful use prohibited.**

- A. No land, building or structure shall be used for any purpose or use not allowed in the zone in which such land, building or structure is located.
- B. Violation of any of the provisions contained in this title is prohibited. Any person who violates that provisions of this title shall be subject to the criminal and civil penalties set forth in this chapter.

**19.94.040 Violation—Penalties and remedies.**

- A. Violation of any of the provisions of this title is punishable as a Class C misdemeanor upon conviction. In addition, the provisions of this title may also be enforced by injunctions, mandamus, abatement, civil penalties, or any other remedies provided by law.
- B. Any one, all, or any combination of the penalties and remedies set forth in subsection A of this section may be used to enforce the provisions of this title.
- C. Each day that any violation continues after notification by the director of development services or his agent that such violation exists shall be considered a separate offense for purposes of penalties and remedies set forth in this title.
- D. Accumulation of penalties for continuing violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation.

**19.94.050 Violation—Persons liable.**

Any person, corporation or other entity, whether as owner, occupant, agent or employee, who causes, permits or otherwise participates in any violation of the provisions of this title may be held responsible for the violation, suffer the penalties, and be subject to the remedies provided by law.

**19.94.060 Violation—Notice and order.**

- A. Upon inspection and discovery that any provision of this title is being violated, the director shall provide a written notice of violation and order to the property owner and to any other party who may be responsible for the violation.
- B. The written notice and order shall: (1) indicate the nature of the violation; (2) order the action necessary to correct the violation; (3) give information regarding the established warning period for the violation; and (4) state the action the director intends to take if the violation is not corrected within the warning period.
- C. The written notice shall be delivered personally or mailed to the property owner, as shown on the records of Brighton recorder, and to any other person who may be responsible for the violation. Receipt of notice shall mean three days after the date written notice is delivered or mailed as provided herein.
- D. The written notice shall serve to start any warning periods provided in this chapter, commencing upon receipt of notice. If the violation remains uncured within five days after the expiration of the warning period, a second notice of violation and order shall be delivered in the same manner as the first notice. The second notice shall serve to start the civil penalties.
- E. In cases where the director determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this title, the director may seek immediate enforcement

without prior written notice by instituting any of the remedies, other than civil penalties, authorized by Section 19.94.040 of this chapter.

**19.94.070 Civil penalties.**

- A. Civil Penalties. Violations of the provisions of this title shall result in civil penalties pursuant to the following schedule:

CIVIL PENALTIES FOR VIOLATION OF ZONING REGULATIONS		
WARNING PERIOD: 28 DAYS FOR ALL VIOLATIONS		
Type of Zone	Classification of Violation	Fine Per Day (after warning period)
Residential Zones FR's	Conditional use without a permit Other violations	\$25
	Nonpermitted use Violation of permit or approval	\$50
Mixed Zones FM's	Conditional use without a permit Other violations	\$50
	Nonpermitted use Violation of permit or approval	\$100
Commercial/Manufacturing Zone C	Conditional use without a permit Other violations	\$100
	Nonpermitted use Violation of permit or approval	\$200

- B. Daily Violations. Each day a violation is continued or maintained after receipt of notice shall give rise to a separate civil penalty for each day of violation.
- C. Violation Appeal Procedures.
1. The mayor shall appoint such hearing officers as he/she deems appropriate to consider matters relating to the violation of this title.

2. Any person having received notice of such violation, or the owner of any affected property, may appear before a hearing officer and present and contest such alleged violation of this title.
3. The burden to prove any defense specified in subsection (C)(4) of this section shall be upon the person raising such defense.
4. If the hearing officer finds that no violation occurred and/or a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the notice of violation. Such defenses are:
  - a. At the time of the receipt of the notice of violation, compliance would have violated the criminal laws of the state;
  - b. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property.
5. If the hearing officer finds that a violation of this title occurred and no applicable defense exists, the hearing officer may, in the interest of justice and on behalf of Brighton, enter into an agreement for the timely or periodic payment of the applicable penalty by the violator.
6. No action by a hearing officer shall relieve the violator from complying with any of the provisions of this title.

D. Abatement for Correction and Payment.

1. Civil penalties shall be partially abated after the violation is cured and in the discretion of a hearing officer considering the following guidelines and factors:
  - a. Prompt Cure. Reductions are generally appropriate for promptly curing the violation pursuant to the following schedule, but the hearing officer may grant greater or lesser abatements depending on the facts of the case:
    - i. Cured within fourteen days after second notice—seventy-five percent reduction,
    - ii. Cured within twenty-eight days after second notice—fifty percent reduction, or
    - iii. Cured within fifty-six days after second notice—twenty-five percent reduction;
  - b. If strict compliance with the notice and order would have caused an imminent and irreparable injury to persons or property;
  - c. If the violation and inability to cure were both caused by a force majeure event such as war, act of nature, strike or civil disturbance;
  - d. Such other mitigating circumstances as may be approved by the attorney or designee;
  - e. If a change in the actual ownership of the property was recorded in the recorder's office after the first or second notice was issued and the new owner is not related by blood, marriage or common ownership to the prior owner.

2. If the hearing officer finds that the noticed violation occurred and no applicable defense applies, the hearing officer may, in the interest of justice and on behalf of Brighton, enter into an agreement for the delayed or periodic payment of the applicable penalty.

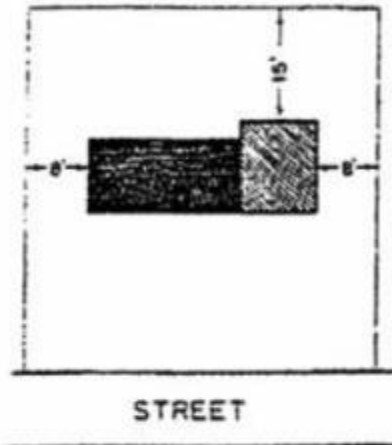
E. Collection of Civil Penalties.

1. If the penalty imposed pursuant to this chapter remains unsatisfied after forty days or when the penalty amounts to five thousand dollars from the receipt of notice, or ten days from such date as may have been agreed to by the hearing officer, Brighton may use such lawful means as are available to collect such penalty, including costs and attorney's fees.
2. Commencement of any action to remove penalties shall not relieve the responsibility of any penalty to cure the violation or make payment of subsequently accrued civil penalties nor shall it require Brighton to reissue any of the notices required by this chapter.



## DIAGRAMS FOR TITLE 19

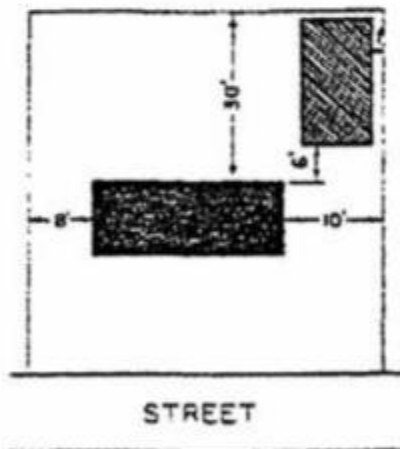
### DIAGRAMS FOR TITLE 19



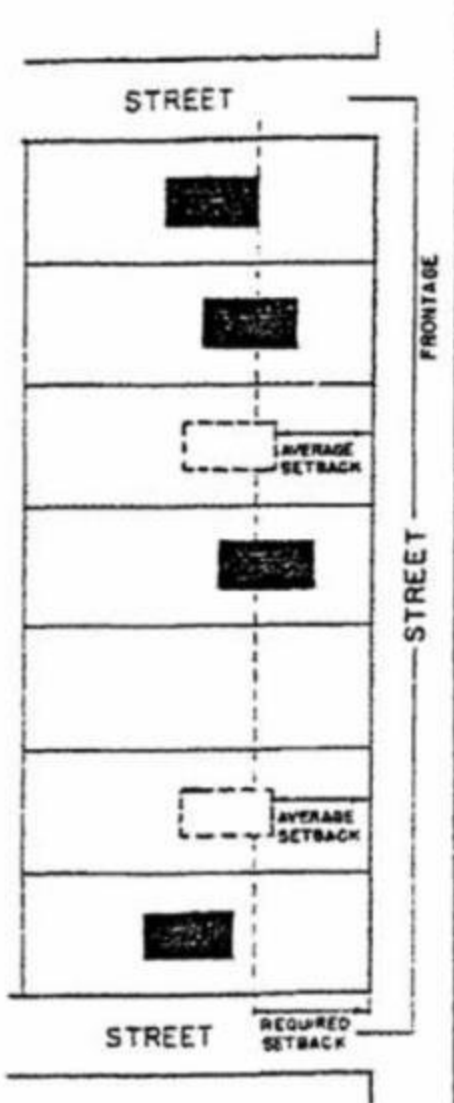
NOTE: FOR SIDE YARD DIMENSIONS  
SEE APPROPRIATE ZONE.

Eff. 2-29-80

Section 19.76.140



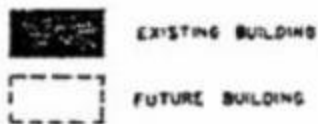
**Private garage or carport—Reduced yards.** On a lot where a private garage or carport, containing at least one parking space of the two required parking spaces per dwelling unit for a single-family dwelling or a duplex, has the minimum side yard required for such dwelling, the width of the other side yard may be reduced to the minimum required side yard. Side yards adjacent to a street on a corner lot may not be reduced. On any lot where such garage or carport has such side yard, the rear yard of the single-family dwelling or duplex may be reduced to fifteen feet, provided the garage or carport also has a rear yard of at least fifteen feet.

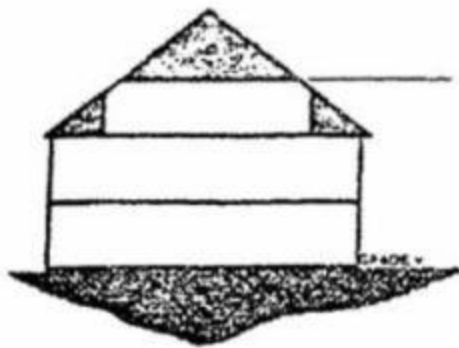


**Average setback.** This illustration applies to: Zones R-1-43, S-1-G, R-1-6, R-1-7, R-1-10, R-1-21, R-1-8, R-2-8, R-2-6.5, R-2-10, R-2-10C, R-4-8.5, R-M, A-1 and A-2.

The required front yard may be reduced to equal the average setback of the existing buildings where fifty percent or more of the frontage is developed, provided that in no case shall the front yard be less than twenty feet.

**19.04.260 Frontage.** "Frontage" means all property fronting on open side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.





**19.04.510 Story, half.** "Half story" means a story with at least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor immediately below it.

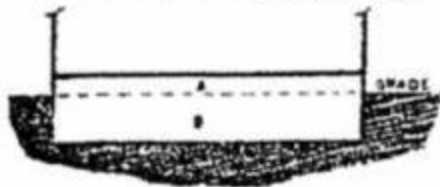
(Ord. 1322 § 2, 1995)

**19.04.075 Basement.** "Basement" means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story.

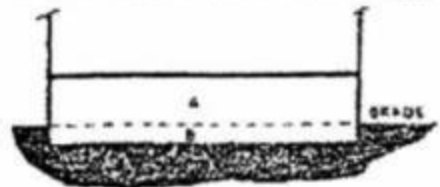
**19.04.507 Story, first.** "First story" means that the lowest story in a building which qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet below grade for more than fifty percent of the total perimeter, or not more than eight feet below grade at any point.

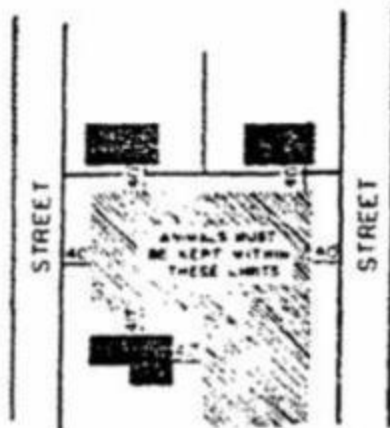
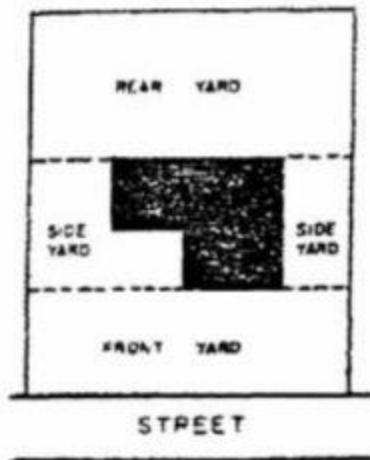
(Ord. 1327 § 2, 1995)

**BASEMENT** When A is less than B.



**FIRST STORY** When A is more than B.





**19.04.560 Yard.** "Yard" means a space on a lot, other than a court, unoccupied and unobstructed from the ground upward by buildings or structures, except as follows:

- A. Fences;
- B. Canopies allowed under subsection B of Section 19.80.120;
- C. Accessory buildings in a rear yard;
- D. The ordinary projections of windows where the projection is at least eighteen inches above floor level, roofs, cornices, chimneys, flues, and other ornamental features which project into a yard not more than three feet;
- E. Open or lattice-enclosed exterior stairways, located in a commercial or manufacturing zone, projecting into a yard not more than five feet;
- F. Structures less than eighteen inches in height from the finished ground surface.

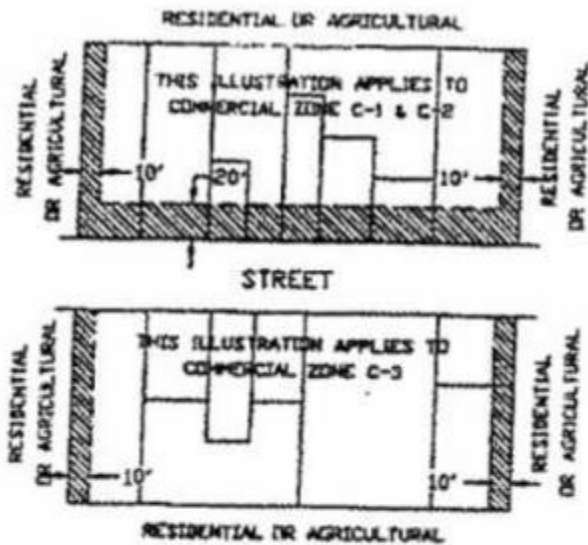
**19.04.565 Yard, front.** "Front yard" means a space on the same lot with a building, between the front line of the building and the front lot line, and extending across the full width of the lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the building.

**19.04.570 Yard, rear.** "Rear yard" means a space on the same lot with a building, between the rear line of the building and the rear lot line, and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

**19.04.575 Yard, side.** "Side yard" means a space on the same lot with a building, between the side line of the building and the side lot line, and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and the side line of the building.

(Ord. 1326 § 2, 1995)

**19.76.240 Animals and fowl.** No animals or fowl shall be kept or maintained closer than forty feet from any dwelling on an adjacent parcel of land, and no barn, stable, coop, pen or corral shall be kept closer than forty feet from any street, except that in the R-2-10C residential zone, no corral or stable for the keeping of horses may be located closer to a public street or to any dwelling than one hundred feet.



**Side yard regulations.** None, except that wherever a building is located upon a lot adjacent to a residential zone or agricultural zone boundary, there shall be provided a side yard of not less than ten feet on the side of the building adjacent to the zone boundary line, and on corner lots the side yard which faces on a street shall be not less than twenty feet.

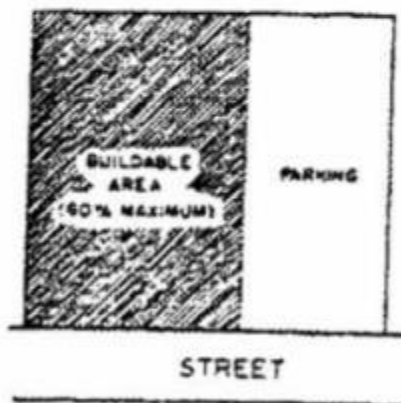
**Front yard regulations.** In C-1 and C-2 zones, the minimum depth of the front yard for all buildings, structures, walls or fences more than two feet in height shall be twenty feet.

**Rear yard regulations.** None, except that on corner lots which rear upon the side yard of another lot in a residential or agricultural zone, the minimum rear yard shall be ten feet.

(Ord. 1320 § 2, 1995)

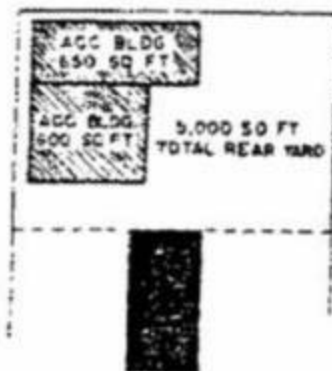
#### Lot Coverage for Commercial Zones

**Coverage regulations.** No building or structure or group of buildings with their accessory buildings shall cover more than sixty percent of the area of the lot.





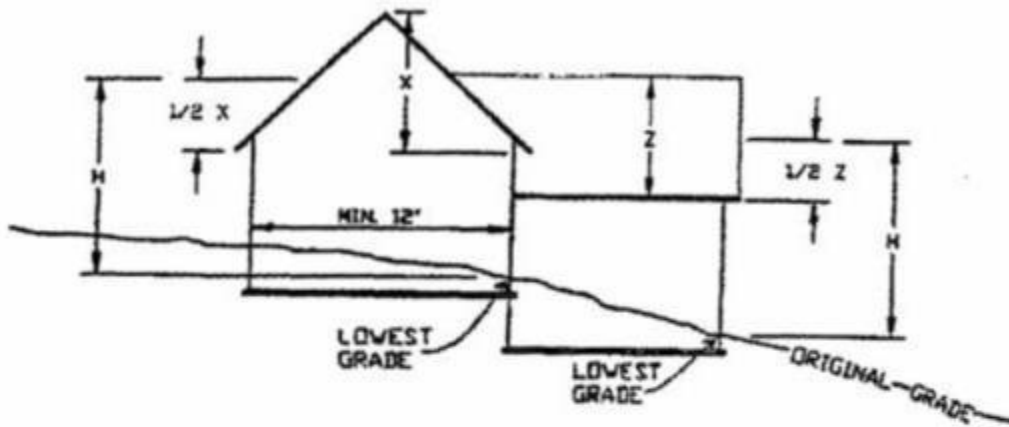
**Clear view of intersecting streets.** In all zones which require a front yard, no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street property lines on a line connecting them at points forty feet from the intersection of the street lines, except a reasonable number of trees pruned high enough to permit unobstructed vision to automobile drivers, and pumps at gasoline service stations.



5,000 sq. ft. equals total rear yard area.  
 —1,250 sq. ft. equals total acc. building area.

3,750 sq. ft. equals total open yard,  
 must be at least 75%

**Area of accessory buildings.** No accessory building nor group of accessory buildings in any residential zone shall cover more than twenty-five percent of the rear yard.



**Building height.** "H" equals the building height. "Z" and "X" are examples showing the vertical distance between the top and the bottom of the cornice on a pitched roof. See Section 19.04.095.

(Ord. 1324 § 1, 1995)

# TOWN OF BRIGHTON

## Zoning

GV
FM-10
FM-10/zc
FM-20
FM-20/zc
FR-0.5
FR-1
FR-1/zc
FR-20

